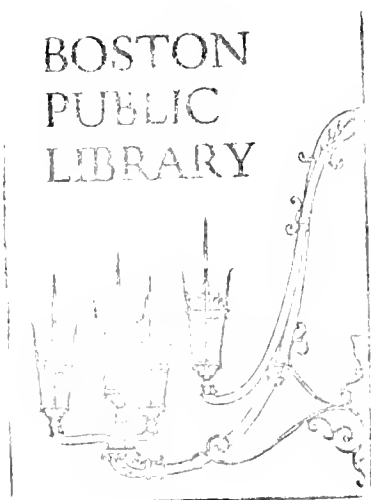


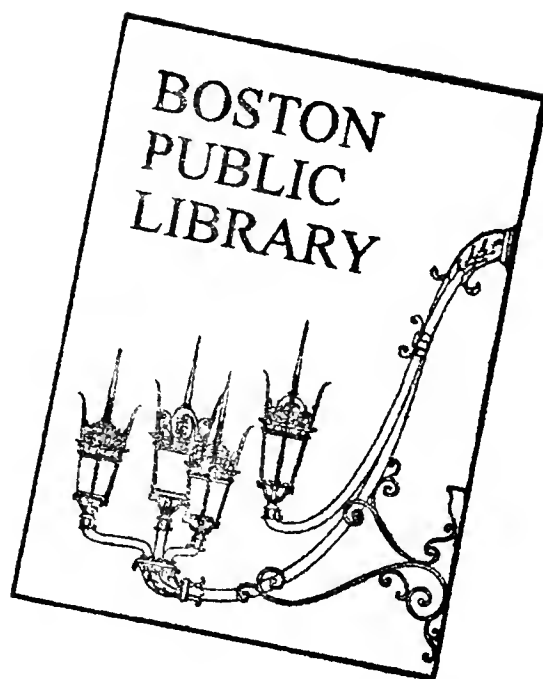
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BOSTON
REDEVELOPMENT
AUTHORITY

Raymond L. Flynn
Mayor

May 2, 1990: 10:00 AM

Stephen Coyle
Director

BRA Planning Conference Room

One City Hall Square
Boston, MA 02201
(617) 722-4300

Chapter 121A Projects In City of Boston

A G E N D A

- A. Overview of applicable statutes and rules and regulations:
 - 1. General Laws, Chapter 121A, as amended ("c. 121A").
 - 2. Acts of 1960, Chapter 652, as amended ("c. 652").
 - 3. Rules and regulations, as amended.
- B. Required approvals, documents and findings:
 - 1. Approval required by BRA and Mayor; City Council approval not required; approval documents (see, B.2 below) must be filed with the City Clerk.
 - 2. Approval documents:
 - a. Report and Decision.
 - b. Amendments to Report and Decision.
 - 3. Procedure: public hearing required for all new projects and all revisions to an existing project which constitutes a "fundamental change".
 - 4. Statutory findings for a new project:
 - a. Project area: a blighted, open or decadent area;
 - b. Project is "practicable" (i.e., cost reasonably estimated and financially feasible);
 - c. Project constitutes a public use and benefit;
 - d. Project consistent with Master Plan of City of Boston;
 - e. Project will not be detrimental to the best interests of the public or the city or to the public safety and convenience or inconsistent with the most suitable development of the City;
 - f. Project will not cause environmental damage.
- C. Benefits of 121A designation:
 - 1. Project area exempt from local real estate taxes for a minimum of 15 years; to a maximum of 40 years;

2. Zoning deviations (variances, conditional use permits, etc.) may be granted, exclusive of the Board of Zoning Appeals; and
3. Delegation of eminent domain powers.

D. Burdens (or restrictions) of a 121A designation:

1. No sale or transfer of any interest in the project (and project area) without BRA approval;
2. Return restriction: 6-8% of "amount invested" in the project; and
3. No project changes, i.e., changes in uses, design, additions or extensions, without BRA approval.
4. Refinancing; depending upon project may require BRA approval.
5. Project specific rules and regulations.

E. Bifurcated tax structure:

1. Project owner pays to the state Department of Revenue ("DOR") an "urban redevelopment excise tax" on a calendar year basis. Statutory formula: 1% of "fair cash value" and 5% of project gross income. "Fair cash value" determined annually by the Assessing Department. See, c. 121A, Section 10.
2. Project owner makes payments in-lieu of taxes annually to the City of Boston. Payments based on a percentage of gross income, less the excise payments made to DOR referred to in E. 1. above. See, c. 121A, Section 6A.

F. 121A Agreements:

1. Regulatory Agreement, between BRA and project owner.
2. 6A Contract, between City of Boston and project owner; this contract governs the payment in-lieu of taxes referred to in E. 2. above.

G. Project transfers (the sale or assignment of a project, any severable part thereof, or interest therein):

1. Voluntary transfers; owner-seller must apply for approval of transfer. BRA must make a finding that buyer "has the requisite ability" to acquire and operate the project. See, c. 652, Section 13A; c. 121A, Sections 11 and 18B.

2. Involuntary transfer by foreclosure or to avert a foreclosure; approval of new owner by BRA not required but project remains subject to c. 121A, c. 652 and all of the agreements and contracts in connection with the project. See, c. 121A, Section 16A.
- H. Rescissions/terminations: "express" and "implied" powers.
- I. Attachments; specific approval documents and agreements:
1. Report and Decision; original in connection with Post Office Square Chapter 121A Project;
 2. Amendment to Report and Decision; third amendment in connection with MBH Associates Chapter 121A Project; amendment in connection with Westminster-Willard Chapter 121A Project;
 3. Regulatory Agreement in connection with MBH Associates Chapter 121A Project; and
 4. 6A Contract in connection with Back Bay Restorations Chapter 121A Project; and first amendment in connection with MBH Associates Chapter 121A Project.

Report and Decision: Post Office Square Chapter 121A Project

M E M O R A N D U M ~~BOARD APPROVED~~

MAY 10, 1984

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: CHAPTER 121A APPLICATION OF POST OFFICE SQUARE REDEVELOPMENT CORPORATION

On April 19, 1984, the Authority voted to authorize the Chief General Counsel to prepare a favorable Report and Decision on the above-captioned 121A Application.

The Project Area presently contains an operational, above-ground 950-car garage on 1.56 acres of land owned by the City of Boston and bounded by Congress, Pearl, Milk and Franklin Streets in the center of Boston's Financial District.

The Project consists of the acquisition of the land within the beforementioned area, the demolition of the existing garage and the construction of a new 6-level underground garage with parking for 1,400 vehicles. The ground level will be a landscaped urban park designed to encourage pedestrian use and provide the proper amenities for this purpose.

Authority staff have reviewed the application and related documents and have found that there is sufficient evidence in support of the Project to make those findings and determinations necessary to proceed with the approval of the Project.

An appropriate vote follows:

VOTED: That the document presented at this meeting entitled "Report and Decision on the Application of Subsidiaries of Friends of Post Office Square, Inc., for the Authorization and Approval of a Project under Massachusetts General Laws Chapter 121A, as amended, and Chapter 652 of the Acts of 1960, and for Consent to the Formation Pursuant to Said Chapter 121A of an Urban Redevelopment Corporation under the Name Post Office Square Redevelopment Corporation for the Purpose of Undertaking and Carrying Out of the Project", be and hereby is approved and adopted.

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION OF SUBSIDIARIES OF FRIENDS OF POST OFFICE SQUARE, INC., FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AND FOR CONSENT TO THE FORMATION PURSUANT TO SAID CHAPTER 121A OF AN URBAN REDEVELOPMENT CORPORATION UNDER THE NAME POST OFFICE SQUARE REDEVELOPMENT CORPORATION FOR THE PURPOSE OF UNDERTAKING AND CARRYING OUT THE PROJECT.

A. The Hearing. A public hearing (the "Public Hearing") was held from 2:25 p.m. until 5:50 p.m. on December 15, 1983, and from 2:15 p.m. until 5:40 p.m. on January 19, 1984, in the offices of the Boston Redevelopment Authority (the "Authority"), at the New City Hall, Room 921, Boston, Massachusetts 02201, by the Authority on an application dated November 14, 1983 (the "Application"), filed by Programs for Parking, Inc., Parking Improvements, Inc., and Better Traffic, Inc., (collectively, the "Applicants") each of which is a Massachusetts corporation and a subsidiary of Friends of Post Office Square, Inc., a Massachusetts corporation, Norman A. Leventhal, President for authorization and approval of a redevelopment project (the "Project") under Massachusetts General Laws, Chapter 121A, and Chapter 652 of the Acts of 1960, as amended (sometimes collectively referred to herein as "Chapter 121A"), and for consent to the formation of Post Office Square Redevelopment Corporation (the "Corporation"). The Applicants submitted a letter of interest dated in August, 1983 with respect to the Project, such letter and accompanying materials were reviewed by the Authority staff, the Applicants filed the Application on November 14, 1983, and due notice of the Public Hearing was given by publication on December 1, 1983 and December 8, 1983, in the Boston Herald American, a daily newspaper of general circulation published in Boston, and by mailing postage prepaid in accordance with Rule 4 of the Authority's Rules and Regulations governing Chapter 121A

projects in the City of Boston (the "Authority Rules and Regulations"), and in accordance with the provisions of Section 13 of Chapter 852 of the Acts of 1960, as amended. Robert L. Farrell, Chairman of the Authority and Joseph J. Walsh, James K. Flaherty, Clarence J. Jones, and William A. McDermott, Jr., members of the Authority, were present throughout both days of the hearing.

B. The Project. The Project consists of the acquisition of the Project Area (as defined below) by the Corporation by purchase, lease or the exercise of the power of eminent domain, demolition of the parking garage presently located on the site, construction of a new underground parking garage and creation of a major new public park at grade level, as more fully described in the Application. The parcel on which the Project is to be located (the "Project Area") consists of approximately 1.56 acres in the center of Boston's Financial District bounded by Congress Street, Franklin Street, Pearl Street, and Milk Street. The Project Area is more particularly described as follows:

A certain parcel of land situated at Congress Street, Milk Street, Pearl Street and Franklin Street, Boston Proper, bounded and described as follows:

Southwesterly by Congress St. eight (8) dimensions,
ninety-eight and 35/100 (98.35) feet,
forty-five and 27/100 (45.27) feet,
fifty-eight and 44/100 (58.44) feet,
twenty-nine and 97/100 (29.97) feet,
thirty-six and 67/100 (36.67) feet,
forty-seven and 96/100 (47.96) feet,
forty-seven and 31/100 (47.31) feet,
forty-seven and 31/100 (47.31) feet;

Southeasterly by Franklin St. two (2) dimensions,
ninety-five and 70/100 (95.70) feet,
one hundred nineteen and 50/100 (119.50) feet;

Northeasterly by Pearl St. four (4) dimensions,
fifty-one and 20/100 (51.20) feet,
twenty and 50/100 (20.50) feet, one hundred
seventeen and 83/100 (117.33) feet, one
hundred forty-nine and 20/100 (149.20) feet;

Northerly by Milk St. one hundred thirteen and 30/100
(113.80) feet;

Containing approximately sixty-seven thousand eight hundred ninety-nine (67,899) square feet.

The Project Area consists of Parcels 1 through 6 on a plan marked "Plan showing land for off-street parking facilities under authority of the Legislature, Chapter 474 of 1946 and Chapter 79 of the General Laws -- City of Boston, Congress St., Milk St., Pearl St., Franklin St., Boston Proper, June 21, 1950, James W. Haley, Chief Engineer, Street Laying-Out Department" on file with the office of the Real Property Board.

A map showing the location of the Project Area is included in the Application as Appendix 1.

The proposed underground parking garage will provide parking for approximately 1,400 cars and will be designed and maintained in accordance with the most modern standards. Such design and maintenance will, among other things, minimize on-street queuing of arriving vehicles during peak hours in order to lessen vehicle crossing conflicts at nearby intersections, and provide adequate lighting and other security features sufficient to allow safe 24-hour use of the garage. Floor plans, sections and certain design specifications for the proposed underground garage are included in the Application as Appendix 4. At grade level, a public park, with trees, flowers, grass and benches, will be constructed in accordance with the design specifications provided in Appendix 4.

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the Public Hearing, the Exhibits offered as evidence at the Public Hearing, the arguments and statements made at the Public Hearing, an inspection of the Project Area

2. Members of the Authority, on January 27, 1984, the report of the structure inspection of the Post Office Square Garage by Simpson Gumpertz & Heger, Inc., the Authority's consulting engineers for the Project, dated March 3, 1984.

3. The Project Area. The Project as defined in the Application constitutes a "Project" within the meaning of Section 1 of Chapter 121A and, accordingly, as it does, for the acquisition, construction, and the operation and maintenance of decent, safe and sanitary, commercial and recreational facilities in a decadent area. The Project Area is a "Decadent Area" as that term is defined in Section 1 of Chapter 121A. In particular, based upon the evidence contained in the Application and presented at the Public Hearing on inspection of the Project Area by the members of the Authority, and the report of Simpson Gumpertz & Heger, Inc., consulting engineers, the parking garage presently located on the Project Area is structurally deteriorated, out of repair, unsafe and in need of major maintenance and repair. The garage is a poor quality structure with inadequate provisions for security. The substandard design of the garage creates on-street clogging of arriving vehicles and the associated traffic congestion. As indicated in the report of Simpson Gumpertz & Heger, Inc., the steel reinforcing rods in the structural slabs are exposed and severe, corroded at construction joints and at other locations. The column bases are cracked and in some columns reinforcing is exposed and corroded. The limestone keystone panels that form the exterior walls on the loading and ramp areas and parapets are severely deteriorated. The close proximity of the parking garage presently located in the Project Area poses the Project Area contributes to the safety, health, welfare and sound growth of downtown Boston and the Financial District.

There has been a substantial change in the business and economic conditions in downtown Boston generally, and in the Financial District particularly,

since the existing garage was constructed. This garage detracts from the improvements which have taken place in the area in recent years, and causes excessive traffic congestion in the area. The existing garage blocks pedestrian flows and discourages pedestrian activities in the area. A park on the Project Area will enhance street life in the area and realize the visual potential of the Project Area. A park on the site will become an important urban focus, and a modern underground parking facility will continue to serve the parking requirements for the Financial District and the City in an unobstructive manner. The appropriate long-term use of the space at grade within the Project Area is as open space, and that the appropriate long-term use of the subsurface portion of the Project Area is as a public parking facility.

There is inadequate light air and open space in the Project Area which is detrimental to the downtown area.

The benefits available under the Chapter 121A are needed in order for the Project to be carried out. Without the Chapter 121A tax benefits, it would not be possible to develop the subsurface portion of the Project Area as a parking garage and still leave space at grade as open space. The eminent domain power available under Chapter 121A is necessary in order to assure the acquisition of the Project Area for the Project.

These conditions and other factors referred warrant the carrying out of the Project in accordance with Chapter 121A.

E. Carrying Out The Project. The Application calls for the formation of an urban redevelopment corporation under the name of Post Office Square Redevelopment Corporation to undertake and carry out the Project. The Corporation will be controlled, through the ownership of all or a majority of the voting stock thereof, by Friends of Post Office Square, Inc. The Authority hereby consents to the formation of such corporation.

The Corporation will lease the Project Area pursuant to a ground lease to a partnership (the "Partnership"), to be created under the laws of the Commonwealth of Massachusetts. The Partnership will construct the Project and will operate and maintain or will cause to be operated and maintained the garage portion of the Project. The Corporation will maintain or caused to be maintained the grade-level park portion of the Project. The Corporation will control the development of the Project Area by the provisions of the ground lease, as provided in the Application. A summary of the proposed terms of the ground lease is included in the Application at Appendix 17. Any and all changes in the terms of the ground lease, as set forth in Appendix 17, shall be subject to the prior approval of the Authority.

The Partnership will be formed at the time the final Project financing is secured, and the terms and conditions of the Partnership agreement in addition to such related documents that the Authority may require, shall be subject to prior approval by the Authority.

The Corporation may institute proceedings for the taking of the Project Area by eminent domain under Chapter 80A of the General Laws. The Authority hereby finds that the use of eminent domain for the Project will be for the purpose of effecting a public improvement. The Authority hereby grants its approval for the Corporation to institute and fully effect proceedings for the taking of all fee and other interests in the Project Area (from whomsoever owned, whether the same be public or private entities) under Chapter 80A of the General Laws. The Board of Directors of the Corporation are hereby authorized to proceed as the board of officers for purposes of said Chapter 80A; provided that, the Corporation shall notify the Authority of any settlement agreements, orders or decisions relative to the proceedings under Chapter 80A.

The Corporation will make certain payments in lieu of real property taxes, as required under Chapter 121A. Subject to receipt by the Authority of approval in writing from the Department of Revenue, Commonwealth of Massachusetts, the Corporation will pay an annual excise under Section 10 of Chapter 121A in an amount equal to the sum of (i) one percent of the fair cash value (as determined by the City of Boston Assessing Department) of the real and tangible personal property of the Corporation and (ii) five percent of the gross income of the Corporation. In addition, the Corporation will make annual payments to the City of Boston pursuant to a contract entered into in accordance with Section 6A of Chapter 121A, and annual payments to a trust fund (the "Park Trust") established for the development and maintenance of parks in the City of Boston, also pursuant to the Section 6A contract. The amounts payable by the Corporation to the City of Boston and to the Park Trust shall be calculated pursuant to a Section 6A contract to be approved and executed by the City of Boston, which shall be substantially in accordance with the tax letter, dated December 14, 1983, incorporated herein by reference.

F. Cost of The Project. In the opinion of the Authority the cost of the Project has been realistically estimated in the Application and the Project is practicable. The Applicants' estimate of the cost of the Project is to be \$43,000,000. The financing of the Project shall proceed in the following manner:

1. The Corporation shall issue 11,000 shares of stock without par value, 1,000 of which shall be voting common stock and 10,000 of which shall be non-voting common stock. All voting stock shall, for other than cash consideration, be issued to Friends of Post Office Square, Inc. The non-voting stock shall be issued to one or more persons or entities contributing cash to the Corporation is upon receipt of its equity contribution.

2. The equity investment in the Project shall be for not less than 10% of the estimated cost of the Project and will consist of a combination of cash, services and materials or contracts for services and materials. Such services and materials, or contracts therefor, shall be contributed by, through, or on behalf of Friends of Post Office Square, Inc., and will consist of services and materials supplied or delivered prior to or after the filing of the Application. The cash portion of the equity investment shall in no event be less than \$2,000,000. The value of the services and materials, or contracts therefor, shall be as determined by the accountants for the Corporation, which shall be a nationally-recognized accounting firm approved by the Authority. The Corporation is hereby authorized to commence construction prior to receipt by the Corporation of the full amount to be paid for the stock, provided that, if receipt of the equity investment equal to not less than 10% of the cost of the Project does not occur within thirty-six months after issuance of a full building permit for the Project, construction shall not continue without the consent of the Authority.

3. The Authority hereby consents to the issuance by the Corporation of short-term secured debt to cover site acquisition and other interim costs and to the issuance of short-or long-term secured debt (which may be in the form of tax-exempt revenue bonds) which debt will be for not more than 90% of the cost of the Project. Such debt may be issued in two or more series.

G. Consistency With Master Plan. The Project does not conflict with the Master Plan for the City of Boston, as the Project Area comes within a classification in the Master Plan which permits commercial uses of the kind proposed by the Applicants.

H. Effect of The Project. The Project will not be in anyway detrimental to the best interests of the public or the City of Boston or to the

public safety and convenience, and is not inconsistent with the most suitable development of the Project Area neighborhood or of the City. The Project will, in fact, forward the best interests of the City and will constitute a major and significant public use and benefit. The Project will eliminate the conditions which cause the Project Area to be a decadent area within the meaning of Chapter 121A. The Project will replace poorly-maintained and deteriorating garage presently located in the Project Area and replace it with a larger, modern, underground parking facility which will reduce or eliminate the traffic congestion, and inconvenience to pedestrians associated with the present garage. The Project will also provide a park at grade level which will meet the needs of the area for open space and related amenities. The open space and related amenities provided by the Project exceed the amenities that would normally result from a downtown development project. The long-term use of the Project Area for open space at grade, as made possible by the Project, is the most desirable use of the Project Area in the relation to the overall economic and environmental requirements of the surrounding neighborhood.

The Project is consistent with the City of Boston's policies concerning downtown development, which include increasing short-term parking, and increasing open space and pedestrian movements. The Project will provide a vital link in the network of public open space leading from Downtown Crossing to the Boston Waterfront.

The Project will enhance the retail business environment by providing additional short-term parking for use by downtown shoppers. The Project will provide parking for 1,400 cars, as compared to the existing garage, which contains spaces for approximately 750 cars. All of the 1,400 parking

spaces in the proposed underground garage will be park and lock spaces. Final, detailed plans for the underground garage and for the park will be subject to continuing design review by the Authority.

The Project will also provide revenues to the City of Boston and to the Park Trust, which was established for the development and maintenance of parks in the City of Boston. Such amounts will be paid under Sections 6A and 10 of Chapter 121A, and are a part of the benefits from the Project.

The Project will have a positive economic impact on downtown Boston and on the City of Boston generally. During construction of the Project, construction jobs will be generated and the general contractor for the Project will be required, to the best of its ability, to grant preference in hiring to Boston residents.

The Project Area does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

1. Environmental Considerations. Pursuant to the provisions of Section 61 of Chapter 30 of the General Laws (as inserted by Chapter 781 of the Acts of 1972), the Authority hereby finds and determines that the Project will not result in significant damage to or impairment of the environment and further finds and determines that all practicable and feasible means and measures have been taken, or will be utilized, to avoid or minimize damage to the environment.

As a result of the investigations and report of the Authority's staff and of its own knowledge, the Authority hereby finds that:

1. The Project will not adversely affect any open space or recreation area or any aesthetic values in the surrounding area. Rather, the Project will create a new urban park and significantly improve the aesthetics of the area.

2. The Project will not adversely affect any archaeological or historical site, structure, or feature. Rather, it is expected that the Project will enhance the historic features of the area.

3. The Project will not adversely affect any significant natural or man-made feature or place but is determined to be compatible with the surrounding environment.

4. Being located in an urban area, the Project will not affect any wilderness area or area of significant vegetation and will not adversely affect any rare or endangered fisheries, wildlife or species or plants. Rather, the Project will add landscaping and vegetation to a densely built-up area.

5. The Project will not alter or adversely affect any flood hazard area, inland or coastal wetland, or any other geologically unstable area.

6. The Project will not involve the use, storage, release, or disposal of any potentially hazardous substances (except for the storage of gasoline in parked automobiles).

7. The Project will not affect the potential use or extraction of any agricultural, mineral, or energy resources.

8. The Project will not result in any significant increase in consumption of energy or generation of solid waste.

9. The Project will not adversely affect the quantity or quality of any water resources and will not involve any dredging.

10. Except necessarily during the construction phase, the Project will not result in the generation of a significant amount of noise, dust, or other pollutants, and will not adversely affect any sensitive receptors.

11. The Project will not adversely affect any area of important scenic value.

12. The Project will not conflict with any Federal, State, or local land use, transportation, open space, recreation, and environmental plans and policies. Rather, the Project is consistent with the City of Boston's policies concerning downtown development.

13. The Project will require deviations from the Zoning Code of the City of Boston as further detailed herein, but not in such a manner as will cause damage to the environment.

In order to avoid or minimize any damage to the environment, the Applicants shall comply with the following environmental conditions:

1. Construction and operation of the Project be undertaken in conformance with the mitigation program as outlined in Exhibit C of Attachment B of the Notice of Effect to Historic Properties, included as Appendix 13 of the application.

2. All construction work comply with the City's regulations for the control of atmospheric pollution and noise.

3. The Applicant's shall submit to the Authority for review wind and shadow studies, air quality and noise studies, and project design studies, as described in the aforementioned Exhibit C.

4. A parking rate structure be established which does not encourage the waiting and queuing of vehicles as currently exists during the A.M. peak hour.

5. A parking freeze permit be obtained from the City of Boston Air Pollution Control Commission in accordance with its regulations.

6. The Applicants submit to the Authority for review a plan which has the goal of encouraging ridesharing/vanpooling use of spaces (to a maximum of 1,400) in excess of 1,200 spaces.

7. No less than 350 spaces in the garage shall be assigned as short-term spaces.

8. Oil/grease traps shall be installed in all floor drains of the garage in order to prevent the discharge of these pollutants into the municipal sewer system, and such drains shall be properly cleaned and maintained.

9. Air exhaust vents from the garage shall be located so as not to cause any adverse effects on surface park users and other pedestrians and shall be so designed as not to become visual blight in the area.

J. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement of the Project, as set forth in Appendix 18 to the Application, are hereby adopted and imposed as Rules and Regulations, in addition to those hereinafter adopted and imposed, applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A. The Corporation shall be required to proceed in accordance with the Development Schedule outlined in Section 5 of and Appendix 16 to the Application, which schedule may be extended with the prior approval of this Authority in the event of delays caused by judicial action required to exercise the power of eminent domain, or any appeal or related action, and which Schedule may be extended for a period equal to the period from January 1, 1984 until the date of final approval of the Application by the Mayor of Boston.

In addition to the minimum standards set forth in Appendix 18, the Authority hereby requires prior to obtaining a building permit that, (1) the Corporation and the Partnership shall enter into a Regulatory Agreement with the Authority containing such terms and conditions as the Authority may in its discretion deem necessary and appropriate, (2) the Corporation and the Partnership shall submit to the Authority for its review and approval all plans and specifications for the Project as the Authority may require and accept such changes and modifications thereto as the Authority may deem necessary

and appropriate, (3) the Corporation and the Partnership shall adhere to such design review controls and requirements as the Authority may in its discretion impose, and (4) the Corporation shall enter into negotiations with the City of Boston relative to the compensation due the City that may arise from any eminent domain taking under Chapter 80A.

The parking garage portion of the Project may be located within five hundred feet of a church, the Old South Meeting House. The Authority hereby determines that such garage will not be substantially detrimental to such church, but rather will benefit the church by reducing traffic problems in the area, and hereby grants a permit to the Applicants, the Corporation, and the Partnership for the erection, maintenance and use of such garage notwithstanding Chapter 310 of the Acts of 1922 or other provisions of law, as authorized by Section 13 of Chapter 652 of the Acts of 1960.

The Project does not involve the construction of units which constitute a single building under the State Building Code and zoning laws, General Laws, Chapter 138.

K. Zoning Code Deviations. The Authority hereby grants permission for the Project to deviate from Section 8-7, Use Item No. 59, and Section 6-3A of the Boston Zoning Code, to allow as a conditional use the construction and operation of an off-street parking garage within a restricted parking district, on the grounds that such permission may be granted without substantially derogating from the intent and purposes of the Boston Zoning Code.

L. Duration of Period of Tax Exemption. The Authority hereby grants approval of the Applicants' request for a 25-year extension to the period of exemption from property taxation pursuant to the provisions of Section 10 of Chapter 121A, as amended by Chapter 827 of the Acts of 1975, and Rule 2, B, 4 (e) of the Authority's Rules and Regulations, it being understood that

the total period of such exemption shall be 40 years. The Authority's approval of such request is based on the public amenities to be provided by the Project, as hereinafter set forth, and is granted on the condition that at the end of such 40 year period or after 5 years following the maturity of the Project short-or long-term debt, referred to in Section F(3) hereof, whichever occurs first, all right, title and interest to the Project (including without limitation the underground garage, the at grade park, air rights, utilities and easements) shall revert to the City of Boston for no consideration. Any refinancing of the Project short-or long-term debt shall be allowed only with the prior approval of the Authority and shall in no event result in any financial benefit or gain of any kind inuring to either the stockholders or officers of the Corporation or the partners, general or limited, of the Partnership. The public amenities include provisions for open space (the Project will provide a public park over nearly the entire Project Area), provisions for recreational and community facilities (the park will be completely open to the public and will be designed to invite pedestrian and community use), the incorporation of significant architectural features in the construction and design of the Project (the park will be designed as a landmark urban green with active central spaces blended with subdued quiet areas) and the incorporation of unusual features of design to overcome a factor which has contributed to the Project being a decadent area (the underground parking facility will necessarily involve unusual features of design and construction to provide underground, off-street queuing, a high degree of security, and unobtrusive ventilation and access structures at grade.)

The period of extension granted above may be shortened with the prior approval of the Authority, pursuant to the terms of a Section 6A contract between the City of Boston and the Corporation, as provided in Section 6A of Chapter 121A.

M. Decision. For all the reasons set forth in the foregoing report, the Authority hereby approves the undertakings by the Applicants of the Project pursuant to Chapter 121A, consistent with the findings, approvals, and provisions set forth above, and hereby consents to the formation of a corporation to be known as Post Office Square Redevelopment Corporation, for the purpose of carrying out the Project in conformity with this Report and Decision.

Amendment to Report and Decision: MBH Associates
and Westminster-Willard Chapter 121A Projects

BOSTON
REDEVELOPMENT
AUTHORITY

Raymond L. Flynn
Mayor

Stephen Covle

One City Hall Square
Boston, MA 0201
617-722-1000

July 24, 1989

Mr. John P. Campbell, City Clerk
Room 601, City Hall
Boston, MA. 02201

SUBJECT: THIRD AMENDMENT TO REPORT AND DECISION ON
THE APPLICATION OF MBH ASSOCIATES (FORMERLY
B&M ASSOCIATES) CHAPTER 121A PROJECT

Dear Mr. Campbell:

Pursuant to Section 13, Chapter 652 of the Acts of 1960, I hereby file with the Office of the City Clerk the following material attested by the undersigned as Secretary.

A Certificate of the Vote of the Authority adopted on June 29, 1989, approving the "APPLICATION FOR APPROVAL OF A THIRD AMENDMENT TO THE REPORT AND DECISION ON THE MBH ASSOCIATES PROJECT UNDER MASSACHUSETTS GENERAL LAWS (TER.ED.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP ORGANIZED PURSUANT TO M.G.L. c. 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER SAID CHAPTER 121A," and adopting a document entitled, "THIRD AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF MBH ASSOCIATES (FORMERLY B&M ASSOCIATES) FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (Ter.Ed.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER CHAPTER 121A."

An Executed copy of the Approval by His Honor, Mayor Flynn, dated July 24, 1989, of the foregoing vote.

Attached to the above-mentioned Certificate of Vote and Approval thereof by His Honor, Mayor Flynn, is a copy of the aforementioned Third Amendment.

-2-

1

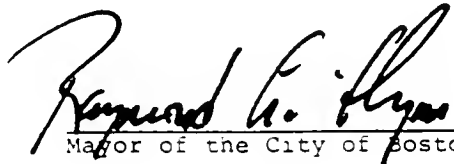
C

Date

Date

APPROVED:

Including, without limiting the generality of the foregoing, the "FIRST AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF ATRIUM ON COMMONWEALTH ASSOCIATES FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (Ter. Ed.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER CHAPTER 121A", and the June 29, 1989, vote of the Authority approving the First Amendment.




Mayor of the City of Boston

JUL 24, 1989
Date

Attest:

City Clerk



Secretary
Boston Redevelopment Authority

BOSTON
REDEVELOPMENT
AUTHORITY

Raymond L. Flynn

July 19, 1989

Stephen Cove

RECEIVED
CITY OF BOSTON
JUL 20 1989

Honorable Raymond L. Flynn
Mayor of Boston
City Hall
Boston, Massachusetts

SUBJECT: THIRD AMENDMENT TO REPORT AND DECISION ON
THE APPLICATION OF MBH ASSOCIATES
(FORMERLY B&M ASSOCIATES) CHAPTER 121A PROJECT

Dear Mayor Flynn:

At the regular meeting of June 29, 1989, the Authority approved the "APPLICATION FOR APPROVAL OF A THIRD AMENDMENT TO THE REPORT AND DECISION ON THE MBH ASSOCIATES PROJECT UNDER MASSACHUSETTS GENERAL LAWS (TER.ED.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP ORGANIZED PURSUANT TO M.G.L., c. 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER SAID CHAPTER 121A," and adopted a document entitled, "THIRD AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF MBH ASSOCIATES (FORMERLY B&M ASSOCIATES) FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (Ter. Ed.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER CHAPTER 121A." The adoption of this document constitutes approval by the Authority.

Enclosed herewith for your review are four copies of the "APPLICATION" and the "AMENDMENT" together with all attachments. Attached to each copy of the same is a Certificate of Vote executed by the undersigned as Secretary.

Section 12 of Chapter 652 of the Acts of 1960 provides as follows: "...provided, however, that no vote of the Authority approving a project or any change therein, or making or amending any rule, regulation or standard therefor, shall be in force until approved by the Mayor of said City." Your approval pursuant to Section 12 is respectfully requested.

The Approval Form which is attached to each set of the aforementioned documents is in the form previously approved by the City of Boston Law Department.

Hon. Raymond L. Flynn

- 2 -

July 19, 1989

If the vote of the Authority approving the Third Amendment to the Report and Decision meets with your approval, please sign all four copies of the Approval Certificate, one copy of which I am required as Secretary to file with the City Clerk pursuant to Chapter 652 of the Acts of 1960.

Very truly yours,

A handwritten signature in cursive script, reading "Kane Simonian".

Kane Simonian
Secretary

KS/TG
Attachments

CERTIFICATE OF VOTE

The undersigned hereby certifies as follows:

(1) That he is the duly qualified and Acting Secretary of the Boston Redevelopment Authority, hereinafter called the Authority, and the keeper of the records, including the journal of proceedings of the Authority.

(2) That the following is a true and correct copy of a vote as finally adopted at a meeting of the Authority held on June 29, 1989, and duly recorded in this office:

Copies of a memorandum dated June 29, 1989, were distributed re: Third Amendment to the Report and Decision on the MBH Associates Chapter 121A Project, attached to which were copies of documents entitled "THIRD AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF MBH ASSOCIATES (FORMERLY B&M ASSOCIATES) FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (Ter. Ed.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER CHAPTER 121A"; "APPLICATION FOR APPROVAL OF A THIRD AMENDMENT TO THE REPORT AND DECISION ON THE MBH ASSOCIATES PROJECT UNDER MASSACHUSETTS GENERAL LAWS (Ter. Ed.) CHAPTER 121A AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP ORGANIZED PURSUANT TO M.G.L., c. 109, AND APPROVAL TO ACT AS AN URBAN DEVELOPMENT LIMITED PARTNERSHIP UNDER SAID CHAPTER 121A"; "ATTACHMENT TO THIRD AMENDMENT TO REPORT AND DECISION--Amendment to 6A Contract"; "Disclosure Statement Concerning Beneficial Interests"; documents entitled "Fenway Community Health Center" (cost analysis) and "Fenway Area Health Center Proposed Savings from Amending Atrium Agreement"; a letter of support from Thaddeus J. Jankowski, Jr., Commissioner, City of Boston Assessing Department, and a proposed vote.

Mr. Peter Dreier, Director of Housing, addressed the Board. submitted a letter of support dated June 28, 1989, from Attorney Nicholas J. Palermo, Jr., on behalf of Daniel Alex the abutter of this project.

Attorney Palermo addressed the Board and assured the Members' that Mr. Alex's concerns at the June 15, 1989, meeting were addressed and Mr. Alex is in support.

On motion duly made and seconded, it was unanimously

VOTED: That the document presented at this meeting entitled, "THIRD AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF MBH ASSOCIATES (FORMERLY B&M ASSOCIATES) FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS Ter. Ed.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER CHAPTER 121A", be and hereby is approved and adopted.

The aforementioned documents entitled "Third Amendment..."; "Attachment to Third Amendment..."; "Application for Approval..."; "Fenway Community Health Center" and "Fenway Community Health Center Proposed Savings..." are incorporated in the Minutes of this meeting and filed in the Document Book of the Authority.

(3) That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Authority voted in a proper manner and all other requirements and proceedings under law incident to the proper adoption or the passage of said vote have been duly fulfilled, carried out and otherwise observed.

(4) That the Document to which this certificate is attached is in substantially the form as that presented to said meeting.

(5) That if an impression of the seal has been affixed below, it constitutes the official seal of the Boston Redevelopment Authority, and this certificate is hereby executed under such official seal.

(6) That Stephen Coyle is the Director of this Authority.

(7) That the undersigned is duly authorized to execute this certificate.

IN WITNESS WHEREOF, the undersigned hereunto has set his hand this 19th day of June, 1989.

BOSTON REDEVELOPMENT AUTHORITY

By: Kaus [Signature]
Secretary

MEMORANDUM

JUNE 29, 1989

TO: BOSTON REDEVELOPMENT AUTHORITY and
STEPHEN COYLE, DIRECTOR

FROM: WILLIAM D. WHITNEY, ASSISTANT DIRECTOR FOR
URBAN DESIGN AND DEVELOPMENT
PETER DREIER, DIRECTOR OF HOUSING

SUBJECT: THIRD AMENDMENT TO THE REPORT AND DECISION ON THE MBH
ASSOCIATES CHAPTER 121A PROJECT

EXECUTIVE

SUMMARY: Request adoption of a Third Amendment to the Report and Decision on the MBH Associates Chapter 121A Project, which involves primarily certain changes to the Project previously authorized by the Second Amendment and to approve a related Amendment to the existing 6A Contract.

Project Background

On February 16, 1989, the Authority approved the Second Amendment to the Report and Decision (the "Second Amendment") for the MBH Associates Chapter 121A Project (the "Project") in the Fenway Urban Renewal Area. MBH Associates' original Project consisted of five parcels bounded by Massachusetts Avenue, and Boylston, Hemenway and Haviland Streets. Four of these parcels are developed. The fifth parcel, located at 5-11 Haviland Street, is currently used as an open-air parking lot. The Project changes approved by the Second Amendment involved the construction by MBH Associates of a building containing a 38-car below-grade garage (the "Garage Component"), and two floors of approximately 6,000 square feet each of clinic and related institutional use office space (the "Clinic Component"), to be occupied by the Fenway Community Health Center, Inc. (the "Fenway Health Center").

Upon completion, MBH Associates will convey the Clinic Component of the Project to the Fenway Health Center for a nominal consideration or as a charitable contribution. The Clinic Component will no longer be subject to Chapter 121A after conveyance, although the Garage Component will remain as part of the 121A Project. As approved in the Second Amendment, the building was to have adequate foundations to support an additional third floor to be constructed by the Fenway Health Center in the future.

Third Amendment to Report and Decision

As a result of subsequent analysis, the Fenway Health Center has determined that its current space needs dictate that the facility to be provided by MBH Associates consist of three instead of two floors with approximately 18,000 square feet of space. The Fenway

Health Center approached MBH Associates to seek the addition of a third floor to the building. This addition requires the adoption of a Third Amendment to the Report and Decision (the "Third Amendment").

Primarily, the Third Amendment would change the description of the facility to be three stories with an estimated construction cost of \$3,575,000 instead of \$1,500,000, and authorize the execution of an Amendment to the existing 6A Contract.

MBH Associates has entered into discussions with Authority and Assessing Department staffs regarding the means to accomplish the construction of the facility. A General Partner of MBH Associates, Harold Brown, is also a General Partner of the Atrium On Commonwealth Associates, a limited partnership which owns a 218-unit residential project with some commercial space in Brighton known as the Atrium. The Atrium is also a Chapter 121A Project. MBH Associates has proposed that the City of Boston amend the existing 6A Contracts for both the MBH and Atrium On Commonwealth Chapter 121A Projects to cover the cost of construction of the proposed three story facility for the Fenway Health Center.

Authority and Assessing Department staffs have reviewed the costs for the facility submitted by MBH Associates and have analyzed the value of the savings that would be realized as a result of the proposed 6A Contract Amendments. Based on the proposed construction costs submitted by MBH Associates, the reduction in payments under both 6A Contract Amendments would not exceed the cost of construction.

Enclosed herewith are copies of the following documents:

Analysis of Construction Costs and Tax Benefits for Fenway Community Health Center with Tables 2 and 3 attached;

Commissioner of Assessing's letter of June 15, 1989 supporting the approval of the 6A Contract Amendments for both the MBH and Atrium Chapter 121A Projects;

Application for Third Amendment to the Report and Decision, dated June 27, 1989, filed on behalf of MBH Associates;

Disclosure Statement Concerning Beneficial Interests, dated February 15, 1989, previously filed on behalf of Atrium Associates; and

Proposed Third Amendment to the Report and Decision for adoption.

The siting of the Fenway Health Center facility at this location has the support of the community, including the Fenway Community Development Corporation, the Fenway Civic Association as well as City Councillors Scondras and Salerno. Further, the concerns of the owner of 13 Haviland Street have been addressed to his satis-

faction and appropriate provisions have been inserted in the Third Amendment.

Therefore, it is recommended that the Authority adopt the Third Amendment to the Report and Decision on the MBH Associates Chapter 121A Project as presented.

An appropriate vote follows:

VOTED: That the document presented at this meeting entitled, "THIRD AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF MBH ASSOCIATES (FORMERLY B&M ASSOCIATES) FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (Ter. Ed.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER CHAPTER 121A", be and hereby is approved and adopted.

FENWAY COMMUNITY HEALTH CENTER

Construction Costs

1. Hards and Soft Costs.....	\$3,575,000
2. Interest.....	2,145,571
3. TOTAL.....	5,720,571

Tax Deduction on Interest Payments

4. Interest Payments.....	2,145,571
5. Net Present Value @ 10.5%.....	1,504,152
6. Tax Rate.....	28%
7. Present Value of Interest Deductions.....	421,163

Charitable Tax Deduction

8. Building Cost Less Basement (Parking).....	2,200,000
9. Tax Rate.....	28%
10. Charitable Tax Deduction.....	616,000
11. Net Present Value.....	338,382

Summary

A. 121A Savings (See Tables 2 & 3 for Details).....	4,531,721
B. Credit.....	143,225
C. Total Savings.....	4,674,946
D. Less Construction Costs.....	5,345,571
E. Sub-Total.....	(670,625)
F. Plus Present Value of Interest Deductions.....	421,163
G. Plus Present value of Charitable Deduction.....	338,382
H. Less Land Cost.....	375,000
I. Net Benefit to Developer.....	(286,030)

FENWAY AREA HEALTH CENTER
PROPOSED SAVINGS FROM AMENDING ATRIUM AGREEMENT

TABLE 2
JUNE 6, 1989

YEAR	GROSS INCOME	6A PERCENT	6A PAYMENT	C. 59 PERCENT	C. 59 TAX	TAX SAVINGS	PROPOSED AGREEMENT
1988	2,819,175	0.218	627,660	0.086	267,609	380,051	230,982
1989	2,951,154	0.218	643,352	0.086	253,799	389,552	389,552
1990	3,024,933	0.218	659,435	0.086	260,144	399,291	399,291
1991	3,100,556	0.218	675,921	0.086	266,648	409,273	409,273
1992	3,178,070	0.218	692,819	0.086	273,314	419,505	419,505
1993	3,257,522	0.218	710,140	0.086	280,147	429,993	429,993
1994	3,338,960	0.218	727,893	0.086	287,151	440,743	431,000
1995	3,422,434	0.218	746,091	0.086	294,329	451,761	431,000
1996	3,507,995	0.218	764,743	0.086	301,688	463,055	431,000
1997	3,595,695	0.218	783,861	0.086	309,230	474,632	431,000
							4,002,597

FENWAY AREA HEALTH CENTER
PROPOSED SAVINGS FROM AMENDING MBH AGREEMENT

TABLE 3
JUNE 6, 1989

YEAR	GROSS INCOME	6A PERCENT	6A PAYMENT	C. 59 PERCENT	C. 59 TAX	TAX SAVINGS	PROPOSED AGREEMENT
1988	520,593	0.215	111,927	0.093	48,415	63,512	48,900
1989	533,608	0.215	114,726	0.093	49,626	65,100	65,100
1990	546,948	0.215	117,594	0.093	50,866	66,728	66,728
1991	560,622	0.215	120,534	0.093	52,138	68,396	68,396
1992	574,637	0.215	123,547	0.093	53,441	70,106	70,000
1993	589,003	0.215	126,636	0.093	54,777	71,858	70,000
1994	603,728	0.215	129,802	0.093	56,147	73,655	70,000
1995	618,822	0.215	133,047	0.093	57,550	75,496	70,000
							529,124



June 15, 1989

Clarence Jones
Chairman
Boston Redevelopment Authority
Boston City Hall
Boston, Massachusetts 02201

Dear Mr. Jones:

I am writing to express my support for amending the Section 6A Contracts between the City and MBH Associates ("MBH") and Atrium on Commonwealth Associates ("Atrium").

On February 16, 1989, the Boston Redevelopment Authority approved a second amendment to the report and decision authorizing the construction of a health clinic to be operated by Fenway Community Health Clinic, Inc. At the time the second amendment was approved, a two story clinic was contemplated. Further review of the health needs of the community has shown an immediate need for construction of a three floor clinic.

The proposed amendments to the contracts with MBH and Atrium will assist the financial feasibility of the project. Staff members from the Assessing Department and the Boston Redevelopment Authority have met with representatives of MBH and Atrium. Based on the cost of construction as provided by MBH's representatives, the proposed reductions in payments to the City will not exceed the cost of construction.

The Assessing Department is prepared to certify maximum fair cash values to effectuate the proposed reductions.

The Fenway Community Health Clinic, Inc. provides an essential service. Additionally, there has been a broad base of community support for this project.

For all these reasons, I support the proposed amendments to the contracts subject to agreement on final contract language..

Very truly yours,

Thaddeus J. Jankowski, Jr.
Commissioner

BOSTON REDEVELOPMENT AUTHORITY

THIRD AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF MBH ASSOCIATES (FORMERLY B&M ASSOCIATES) FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (Ter. Ed.) CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER CHAPTER 121A.

A. Prior Proceedings. Reference is made to the following:

1. On January 24, 1980, the Boston Redevelopment Authority (the "Authority") voted to adopt a Report and Decision (the "Report and Decision") on a project now known as MBH Associates (the "Project"). Such vote was approved by the Mayor of the City of Boston (the "Mayor") on February 12, 1980 and the vote as approved was filed with the Clerk of the City of Boston (the "City Clerk") on February 19, 1980. The Project, as more particularly described in the Report and Decision, consisted of the rehabilitation and management of 44 apartments and 21,000 square feet of commercial space with a related surface parking lot.

2. On March 20, 1980, the Authority voted to adopt a First Amendment to the Report and Decision. Such vote was approved by the Mayor on March 27, 1980 and the vote as approved was filed with the City Clerk also on March 27, 1980. The First Amendment changed only the name of the Urban Redevelopment Limited Partnership authorized to undertake the Project from B&M Associates to MBH Associates (hereinafter referred to as "MBH Associates").

3. As of April 24, 1980, a certain agreement under Chapter 121A, Section 6A, was executed by and between MBH Associates, a Massachusetts limited partnership and the designated 121A entity in the Report and Decision, and the City of Boston (the "6A Contract").

4. On February 16, 1989, the Authority by vote adopted a Second Amendment to the Report and Decision (hereinafter referred to separately as the "Second Amendment"). Such vote was approved by the Mayor on March 20, 1989 and the vote as approved was filed with the City Clerk on March 24, 1989. The Second Amendment chang-

ed the Project by authorizing in part the construction of a combined garage and two-story (with the option for a third story) facility (collectively, the "Building" and separately the "Garage Component" and the "Clinic Component") on the existing surface parking lot within the Project Area.

The Report and Decision and First and Second Amendments thereto are collectively hereinafter referred to as the "Amended Report and Decision". Capitalized terms not defined herein shall have the meanings set forth in the Amended Report and Decision.

B. Application for Third Amendment. By an Application for a Third Amendment to the Report and Decision, dated as of June 27, 1989, filed on behalf of MBH Associates by its General Partner, Harold Brown, with Exhibit "A" attached thereto (the "Third Amendment Application"), approval was requested in part, of changes to the Building and related land authorized by the Second Amendment (principally, to change the Clinic Component from two to three stories and to increase the estimated cost of construction), of an amendment to the 6A Contract and further, ratification and/or confirmation of the zoning deviations previously approved by the Authority in the Second Amendment. The Third Amendment Application, in its entirety, is incorporated as a part hereof by reference. Previously, MBH Associates had filed with the Authority a certain document entitled, "Disclosure Statement Concerning Beneficial Interests, Chapter 121A Projects In The City of Boston", dated as of February 15, 1989. (This document was referenced in the Second Amendment and is hereinafter referred to as the "Supplementary Material"). The Supplementary Material is also incorporated as a part hereof by reference.

C. Authority Action. In acting hereunder, the Authority has considered the Third Amendment Application itself, all documents and exhibits filed therewith or referred to therein, the Supplementary Material and other materials, sufficient in the Authority's judgment to enable it to act hereunder.

D. Decision. The Authority hereby acts as follows:

1. Approval. The Third Amendment Application is hereby approved and the Report and Decision as amended by the First and Second Amendments are hereby further amended to the extent hereinafter set forth. If there is an inconsistency between the Third Amendment Application and this document (the "Third Amendment"), the provisions of this Third Amendment shall govern.

2. General Findings. The Authority hereby finds and determines that: (a) the changes in the Project as set forth in this Third Amendment do not constitute separately or collectively a fundamental change to the Project in accordance with Chapter 652 of the Acts of 1960, Section 13A, as amended; (b) except to the extent inconsistent with the provisions of this Third Amendment, all of the findings, determinations, approvals and consents contained in the Amended Report and Decision, including specifically those additional zoning deviations referenced in Section E(7) of, and set forth in Exhibit "A" to, the Second Amendment, are hereby ratified and confirmed; (c) this Third Amendment conforms to and complies with the provisions of Chapter 121A of the General Laws, as amended ("Chapter 121A"), Chapter 652 of the Acts of 1960, as amended, and the Authority's Rules and Regulations Governing 121A Projects in the City of Boston (the "Rules and Regulations"); and (d) any procedural or other requirements of the Rules and Regulations which may not have been complied with in the Third Amendment Application or the Authority's proceedings are hereby waived.

3. Changes and Additions to Amended Report and Decision. The Authority hereby further amends the Amended Report and Decision by making certain deletions to the Second Amendment and insertions in place thereof, as stated below:

a. By deleting in its entirety the paragraph inserted by Section E(3)(a) of the Second Amendment and inserting in place thereof the following new paragraph:

"The parking lot at 5-11 Haviland Street (the "Haviland Street Property"), located directly behind the four

buildings at 1078-1080, 1088-1094, 1100 and 1120-1130 Boylston Street (collectively, the "Boylston Street Properties"), presently serves the residential and commercial tenants of the Project. In accordance with this Third Amendment, the Haviland Street Property may be improved by MBH Associates through the construction of one building containing a below grade parking facility and above a three-story health clinic and related institutional use facility containing approximately 18,000 square feet, as more fully described hereafter in Section D, as revised by this Third Amendment."

b. By deleting in its entirety the paragraph inserted by Section E(3)(b) of the Second Amendment and inserting in place thereof the following new paragraph:

"The Project, as described in the original Application, the Amended Report and Decision, and as changed by this Third Amendment, constitutes a "Project" within the meaning of Section 1 of Chapter 121A of the General Laws, as amended, providing as it does for the rehabilitation of the four Boylston Street Properties and the construction of one building (the "Building") containing a below grade parking facility (the "Garage Component") and a three-story health clinic and related institutional use facility (the "Clinic Component") on the Haviland Street Property. Subject to the provisions of the Regulatory Agreement or the Amended and Restated Regulatory Agreement required by this Third Amendment, upon the recording in the Suffolk County Registry of Deeds of both a Certificate of Completion for the Building as issued by the Authority to MBH Associates and an instrument of conveyance in connection with the transfer of fee title to the Clinic Component from MBH Associates to the Fenway Community Health Center, Inc., as hereinafter described, the Clinic Component shall be severed from the Project Area and released from all applicable restrictions, benefits

and exemptions imposed or conferred by Chapter 121A or Chapter 652. Specifically, the Clinic Component will no longer be exempt from taxes, excises or assessments, as set forth in Section 10 of Chapter 121A, and shall thereafter be subject to any and all real and personal property, taxes, excises and assessments to the extent imposed by Chapter 59 of the General Laws, as amended, and other applicable statutes and laws."

c. By deleting in their entirety the paragraph and four subparagraphs inserted by Section E(3)(c) of the Second Amendment and inserting in place thereof the following new paragraph and five subparagraphs:

"The Project Area also contains a parking lot on the Haviland Street Property, directly behind the Boylston Street Properties, which may be improved as follows:

(1) MBH Associates may construct the Building which will contain the Garage Component with approximately 38 parking spaces to serve the residential, commercial and institutional tenants of the Project, and the Clinic Component consisting of three stories, containing approximately 6,000 square feet per story, for a total of approximately 18,000 square feet. The Building will be designed to include a foundation and footings to support a three-story Clinic Component, and there is no present intention to construct any additional stories. However, in the event a fourth story is subsequently proposed or constructed, the exterior wall of said fourth floor adjacent to the entire land and building located at 13 Haviland Street (collectively hereinafter referred to as "13 Haviland Street") shall be set back twenty feet from the Building line. Such fourth floor may be built in such a manner as is reasonably necessary to preserve the consistency of the front facade of the Building facing Haviland

Street.

(2) On the Haviland Street level, the property may be improved on the land not used for the Building by a vehicular access way and landscaped open space. Provided however, that the land between the Building and 13 Haviland Street, except as provided in (4) and (5) below, shall remain open space with tree and yew plantings and other consistent open space improvements. No vehicles, parking, storage, including trash or dumpsters, shall be allowed at any time on that part of the property located between the Building and 13 Haviland Street.

(3) After completion of the Building, MBH Associates, for nominal consideration or as a donation, will convey to the Fenway Community Health Center, Inc. (the "Fenway Health Center"), fee title, including appurtenant easements for access, support, utilities, use, maintenance, etc., to the Clinic Component, using air rights or such other acceptable means but not including condominiumization under Chapter 183A of the General Laws. Fee title to the Garage Component shall be retained exclusively by MBH Associates as part of the Project and shall be subject to Chapter 121A, Chapter 652, and this Third Amendment for the remainder of the period of the tax exemption, as set forth in Section K of the Report and Decision. Ownership of the Boylston Street Properties and the related parcels which comprise the rest of the Project, shall remain exclusively with MBH Associates.

(4) Commencing with the completion of the construction of the Clinic Component, as evidenced by the issuance of the Certificate of Completion, and upon receipt of notice of same by Daniel Alex, the

owner of 13 Haviland Street, (the "Abutter"), until the ninetieth (90th) day thereafter, the Abutter shall have a license to enter the portion of the Project Area being the land between the Building and 13 Haviland Street for the purpose of laying brickwork over a portion of said land shown and identified on the Project Plans (the "Plans") as "Permitted Brickwork Area", as long as the Abutter: (i) performs such work in accordance with plans approved by MBH Associates and the Fenway Health Center, which approvals shall not be unreasonably withheld or delayed; provided that, prior to the Abutter commencing the work, upon notice and subject to an agreement by the Abutter, the Abutter may pay the reasonable costs or expenses incurred by MBH Associates and the Fenway Health Center relating to legal, architectural, contractor's or other such review, if any, of the Abutter's construction plans; (ii) performs such work at the Abutter's sole cost and expense; (iii) agrees to indemnify and hold harmless MBH Associates and the Fenway Health Center from and against any loss, cost, expense or liability for any costs, expenses, damage or injury incurred by MBH Associates or the Fenway Health Center, arising out of or in any way connected with Abutter's exercise of rights to perform such work; (iv) coordinates said work with MBH Associates' contractor and the construction of the Clinic Component, and (v) Abutter complies with such other reasonable requirements of MBH Associates or the Fenway Health Center in connection therewith. The Abutter shall not be liable to pay costs or expenses of maintenance or repair except in the event of defective workmanship or materials.

(5) Commencing with the completion of construction of the Clinic Component, as evidenced by

the issuance of the Certificate of Completion, and upon the Abutter's receipt of notice of same, until the eighteenth (18th) month thereafter, the Abutter may enter the land between the Building and 13 Haviland Street for the purpose of constructing a boiler smokestack within the area extending forty eight inches from the Haviland Street sidewalk along side of the building at 13 Haviland Street and extending eighteen inches toward the Building, all as shown on the Plans, as long as the Abutter: (i) performs such work in accordance with plans approved by MBH Associates and the Fenway Health Center, which approvals shall not be unreasonably withheld or delayed; provided that, prior to the Abutter commencing the work, upon notice and subject to an agreement by the Abutter, the Abutter may pay the reasonable costs or expenses incurred by MBH Associates and the Fenway Health Center relating to legal, architectural, contractor's or other such review, if any, of the Abutter's construction plans; (ii) performs such work at the Abutter's sole cost and expense; (iii) agrees to indemnify and hold harmless MBH Associates and the Fenway Health Center from and against any loss, cost, expense or liability for any costs, expenses, damage or injury incurred by MBH Associates or the Fenway Health Center arising out of or in any way connected with the Abutter's exercise of rights to perform such work; (iv) coordinates said work with MBH Associates' contractor and the construction of the Clinic Component; and (v) the Abutter complies with such other reasonable requirements of MBH Associates or the Fenway Health Center, in connection therewith including that the Abutter shall be solely liable for and will forthwith and duly pay all costs and expenses of maintenance and repair of the constructed smokestack."

d. By deleting in its entirety the paragraph added by Section E(4)(a) of the Second Amendment and inserting in place thereof the following new paragraph:

"The Authority hereby approves and accordingly authorizes the execution of an amendment to the 6A Contract for the Project, in substantially the form as attached to this Third Amendment, with such other terms and conditions not inconsistent therewith, that the Mayor or the Commissioner of Assessing of the City of Boston may deem necessary and in the best interests of the City."

e. By deleting in its entirety the paragraph added by Section E(4)(b) of the Second Amendment and inserting in place thereof the following new paragraph:

"The cost of construction of the Building, consisting of both the Garage and Clinic Components, on the Haviland Street Property, has been realistically estimated to be approximately \$3,575,000. Notwithstanding any provisions of the Amended Report and Decision to the contrary, MBH Associates may grant a mortgage or mortgages to finance the construction of the Building to institutional lenders."

4. Environmental Considerations. Pursuant to the provisions of Section 61 of Chapter 30 of the General Laws, as amended, the Authority hereby finds and determines that the Project as changed by this Third Amendment, will not result in significant damage to or impairment of the environment and further finds and determines that all practicable and feasible means and measures will be utilized by MBH Associates to avoid or minimize damage to the environment in accordance with the Regulatory Agreement or Amended and Restated Regulatory Agreement required by this Third Amendment.

5. Rules and Regulations. Section E(6) of the Second Amendment is hereby deleted in its entirety and the following new Sec-

tion is inserted in place thereof:

"Notwithstanding the minimum standard for financing, construction, maintenance and management of the original Project and any other rules and regulations, as set forth or referred to in the Amended Report and Decision, the Authority hereby imposes as additional rules and regulations on the Project as changed by this Third Amendment, and requires MBH Associates, prior to filing an application with the Inspectional Services Department of the City of Boston for any building permit to: (a) submit to the Authority for its review and approval all plans and specifications for the Project as changed by this Third Amendment and accept such changes and modifications thereto as the Authority may in its discretion impose; (b) enter into a Memorandum of Understanding or other agreement with Fenway Community Health Center, Inc., the terms and conditions of which must be acceptable to the Authority's Director, in his discretion; (c) enter into a Regulatory Agreement or an Amended and Restated Regulatory Agreement with the Authority for the Project as changed by this Third Amendment pursuant to the requirements of Section 18C of Chapter 121A and containing such other terms and conditions, not inconsistent with this Third Amendment, as the Authority's Director in his discretion deems necessary and appropriate, which shall supersede and replace in its entirety any other Regulatory Agreement previously executed between the Authority and B&M Associates or MBH Associates; and (d) enter into the 6A Contract Amendment with the City of Boston, substantially in the form as attached to this Third Amendment."

6. Validating of Amended Report and Decision. All provisions of the Amended Report and Decision that are not specifically amended or revised by this Third Amendment shall remain in force and effect.

7. Severability. In the event any provisions of this Third Amendment shall be held invalid or unenforceable on its face or as applied by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

ATTACHMENT TO THIRD AMENDMENT TO REPORT AND DECISION

Amendment to 6A Contract

AMENDMENT TO 6A CONTRACT BETWEEN
MBH ASSOCIATES
AND THE CITY OF BOSTON

PURSUANT TO SECTION 6A OF
CHAPTER 121A OF THE GENERAL LAWS

AMENDMENT (the "Amendment") made this ___ day of _____, 1989, by and between MBH ASSOCIATES, a Massachusetts limited partnership (the "Owner"), and the CITY OF BOSTON, a municipal corporation of the Commonwealth of Massachusetts (the "City"), acting under Massachusetts General Laws, Chapter 121A, Section 6A, as amended, and every other power and authority hereto enabling. Collectively, the Owner and the City are hereinafter referred to as the "Parties".

W I T N E S S E T H T H A T:

WHEREAS, there was filed on behalf of B & M Associates with the Boston Redevelopment Authority of the Commonwealth of Massachusetts (the "Authority"), an application dated November 8, 1979 (the "Application") under the provisions of Massachusetts General Laws, Chapter 121A, as amended ("Chapter 121A"), and Chapter 652 of the Acts of 1960, as amended, for approval of a project situated in the City of Boston, said project being more particularly described in Paragraph 4 of said Application and in the metes and bounds description of said Application (the "Project");

WHEREAS, the Application sought the approval of the Authority of a project involving 44 units of housing and 21,000 square feet of commercial space (the "Project");

WHEREAS, the Authority adopted a certain Report and Decision on the Project (the "Report and Decision") by a vote on January 24, 1980;

WHEREAS, the Mayor of the City of Boston (the "Mayor") approved the aforementioned vote of the Authority on February 12, 1980;

WHEREAS, the vote of the Authority along with the approval of the Mayor were filed with the office of the City Clerk of the City of Boston (the "City Clerk") on February 19, 1980;

WHEREAS, the Report and Decision was amended by a First Amendment thereto, adopted by a vote of the Authority at a meeting on March 20, 1980, which vote was approved by the Mayor on March 27, 1980 and such vote as approved was filed with the City Clerk on March 27, 1980, which First Amendment changed the name of the partnership which owned the Project subject to Chapter 121A from B & M Associates to MBH Associates;

WHEREAS, the Owner and the City of Boston (the "City") entered into a certain contract, dated as of April 24, 1980, pursuant to Chapter 121A, Section 6A, which contract is incorpor-

ated herein by reference (the "6A Contract");

WHEREAS, the Report and Decision was amended by a Second Amendment thereto adopted by a vote of the Authority at a meeting on February 16, 1989, which vote was approved by the Mayor on March 20, 1989, and such vote as approved was filed with the City Clerk on March 24, 1989, which Second Amendment changed in part the description of the Project; and

WHEREAS, the Report and Decision was amended by a Third Amendment thereto, adopted by a vote of the Authority at a meeting on _____, 1989, which vote was approved by the Mayor on _____, 1989, and such vote as approved was filed with the City Clerk on _____, 1989, which Third Amendment in part further changed the description of the Project and approved and authorized the execution of an amendment to the 6A Contract;

NOW, THEREFORE, the Parties agree as follows:

The 6A Contract is amended by:

1. Inserting the following sub-paragraph as new sub-paragraph 1(d)(iv):

"Commencing with calendar year 1988, and for each year thereafter, the Owner shall pay no more than eight and 60/100 percent (8.6%) of the total gross income from residential tenants, commercial tenants and parking; provided, however, that for calendar year 1988 and succeeding years thereafter, the Owner shall pay no less than the amount paid pursuant to Chapter 121A, Section 10 and provided further that in any year that the difference between the amount that would be due if calculated pursuant to sub-paragraph 1(d)(iii) of the 6A Contract and the amount due pursuant to this sub-paragraph 1(d)(iv) of the Amendment exceeds seventy thousand dollars (\$70,000) then the Owner shall pay to the City as an additional payment hereunder such difference in excess of said seventy thousand dollars (\$70,000)."

2. Inserting the following sub-paragraph as new sub-paragraph 1(d)(v):

"The Owner shall receive a one time credit equal to one-half of the accrued interest on any unpaid amounts due as of April 1, 1989 but in no event more than twenty nine thousand two hundred seventy five dollars (\$29,275). The credit shall be available for use by the Owner only at the time the Owner pays to the City such unpaid amounts.

3. By designating the current sub-paragraph 1(d)(iv) as sub-paragraph 1(d)(vi).

4. By inserting the following paragraph as new paragraph 3:

"Pursuant to the authority conferred by General Laws, Chapter 121A, Section 10, the Board of Assessors of the City hereby determine the maximum fair cash value of the Project,

commencing with calendar year 1989 and succeeding years, shall not exceed an amount which when used in calculating the urban redevelopment excise tax in accordance with the applicable statutory formulae produces an excise equal to or less than the amount due under paragraph 1(d)(iv) of this Amendment. The Board of Assessors of the City agree that such fair cash value shall be certified annually as required, to the Owner and the Department of Revenue, Commonwealth of Massachusetts."

4: 5. By inserting the following paragraph as new paragraph

"In the event the Owner, by and through its contractors, after commencement does not diligently proceed with the construction of the Building and complete same in accordance with the terms of the Amended and Restated Regulatory Agreement, of even date, by and between the Authority and the Owner, required by provisions of the Third Amendment to the Report and Decision on the Project, the Authority's Director may by written notice to the Board of Assessors of the City determine and direct that the right of the Owner to make payments under the formula set forth in sub-paragraph 1(d)(iii), as added by Section 1 of this Amendment and the obligation of the Board of Assessors to make the fair cash value determinations in accordance with Section 4 of this Amendment, shall both be suspended and or revoked, for such period(s) of time as he shall determine, including the full remainder of the period of the tax exemption for the Project, and during such period(s) the Owner shall be obligated to make payments under sub-paragraph 1(d)(iii) of the 6A Contract."

6. By renumbering the remaining paragraphs to confirm the sequence to the changes made herein.

EXECUTED as a sealed instrument the day and year first above written.

MBH ASSOCIATES

By: _____
Harold Brown, General Partner

CITY OF BOSTON

By: _____
Raymond L. Flynn, Mayor

ASSENTED TO:

By: _____
Commissioner of Assessing

APPROVED AS TO FORM:

Corporation Counsel
City of Boston

A TRUE COPY
ATTEST: .



City Clerk

BOSTON
REDEVELOPMENT
AUTHORITY

Raymond L. Flynn
Mayor

Stephen Coyle
Deputy Mayor

One City Hall Square
Boston, MA 02201
617 722-4300

March 27, 1987

Mr. John P. Campbell, City Clerk
Boston City Hall
Boston, Massachusetts

Subject: Amendment to the Report and Decision
on Westminster Place and Willard Place,
121A Projects

Dear Sir:

Pursuant to Section 13, Chapter 652 of the Acts of 1960, I hereby file with the Office of the City Clerk, the following material attested to by the undersigned as Secretary:

A Certificate of the Vote of the Authority adopted on December 11, 1986, approving the "AMENDMENT TO THE REPORT AND DECISIONS ON THE PROJECTS RESPECTIVELY KNOWN AS WESTMINSTER PLACE AND WILLARD PLACE FOR AUTHORIZATION AND APPROVAL OF THE TRANSFER OF SAID PROJECTS AS ONE PROJECT TO WESTMINSTER-WILLARD ASSOCIATES LIMITED PARTNERSHIP, AND FOR CONSENT TO THE FORMATION OF SAID PARTNERSHIP TO ACQUIRE, UNDERTAKE AND CARRY OUT THE PROJECT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP, ALL IN ACCORDANCE WITH CHAPTER 121A OF THE MASSACHUSETTS GENERAL LAWS, AND CHAPTER 652 OF THE ACTS OF 1960, BOTH AS AMENDED";

An executed copy of the Approval by His Honor, Mayor Flynn, on March 16, 1987, of the foregoing Authority vote.

Attached to the above-mentioned certificate of Vote and Approval thereof by His Honor, Mayor Flynn, is a copy of the aforementioned Report and Decision.



Mr. John P. Campbell

-2-

March 27, 1987

Please acknowledge the filing of the foregoing on the xerox copy of this letter and return the same to the undersigned.

Very truly yours,



Kane Simonian
Secretary

KS/MM
Attachments

Receipt of the aforementioned
is hereby acknowledged:




City Clerk

3/31/87

Date

APPROVED:

Including, without limiting the generality of the foregoing, the "AMENDMENT TO THE REPORT AND DECISIONS ON THE PROJECTS RESPECTIVELY KNOWN AS WESTMINSTER PLACE AND WILLARD PLACE FOR AUTHORIZATION AND APPROVAL OF THE TRANSFER OF SAID PROJECTS AS ONE PROJECT TO WESTMINSTER-WILLARD ASSOCIATES LIMITED PARTNERSHIP AND FOR THE CONSENT TO THE FORMATION OF SAID PARTNERSHIP TO ACQUIRE, UNDERTAKE AND CARRY OUT THE PROJECT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP, ALL IN ACCORDANCE WITH CHAPTER 121A OF THE MASSACHUSETTS GENERAL LAWS AND CHAPTER 652 OF THE ACTS OF 1960, BOTH AS AMENDED," and the December 11, 1986 vote of the Authority approving the Amendment.




Mayor of the City of Boston

March 16, 1987
Date

Attest



City Clerk



Secretary
Boston Redevelopment Authority

BOSTON
REDEVELOPMENT
AUTHORITY

Raymond L. Flynn
Mayor

Stephen Coyle
Director

One City Hall Square
Boston, MA 02201
(617) 722-4300

December 17, 1986

Honorable Raymond L. Flynn
Mayor of Boston
Boston City Hall
Boston, Massachusetts

Subject: Amendment to the Report and Decisions on
Westminster Place and Willard Place 121A Projects

Dear Mayor Flynn:

At the regular meeting of December 11, 1986, the Authority approved and adopted a document entitled: "AMENDMENT TO THE REPORT AND DECISIONS ON THE PROJECTS RESPECTIVELY KNOWN AS WESTMINSTER PLACE AND WILLARD PLACE FOR AUTHORIZATION AND APPROVAL OF THE TRANSFER OF SAID PROJECTS AS ONE PROJECT TO WESTMINSTER-WILLARD ASSOCIATES LIMITED PARTNERSHIP AND FOR THE CONSENT TO THE FORMATION OF SAID PARTNERSHIP TO ACQUIRE, UNDERTAKE AND CARRY OUT THE PROJECT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP, ALL IN ACCORDANCE WITH CHAPTER 121A OF THE MASSACHUSETTS GENERAL LAWS AND CHAPTER 652 OF THE ACTS OF 1960, BOTH AS AMENDED." The adoption of this document constitutes approval by the Authority.

Enclosed herewith for your review are four copies of the Amendment to the Report and Decisions. Attached to each copy of the same is a Certificate of Vote executed by the undersigned as Secretary.

Section 12 of Chapter 652 of the Acts of 1960 provides as follows: "...provided, however, that no vote of the Authority approving a project, or any change therein, or making or amending any rule, regulation, or standard therefor, shall be in force until approved by the Mayor of said City." Your approval pursuant to Section 12 is respectfully requested.

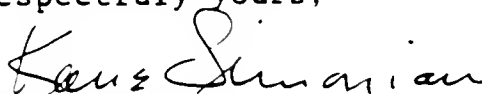
Honorable Raymond L. Flynn

December 17, 1986

The Approval Form which is attached to each set of the aforementioned documents is in the form previously approved by the City of Boston Law Department.

If the vote of the Authority approving the Amendment to the Report and Decisions meets with your approval, please sign all four copies of the Approval Certificate, one copy of which I am required as Secretary to file with the City Clerk pursuant to Chapter 652 of the Acts of 1960.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Kane Simonian".

Kane Simonian
Secretary

KS/TG
Attachments

CERTIFICATE OF VOTE

The undersigned hereby certifies as follows:

(1) That he is the duly qualified and acting Secretary of the Boston Redevelopment Authority, hereinafter called the Authority, and the keeper of the records, including the journal of proceedings of the Authority.

(2) That the following is a true and correct copy of a vote as finally adopted at a meeting of the Authority held on December 11, 1986 and duly recorded in this office:

The Chairman opened the public hearing on Westminster/Willard, which was a continuation of a previous hearing.

Copies of a memorandum dated December 11, 1986 were distributed re Amendment to the Report and Decisions on the Projects Respectively Known as Westminster Place and Willard Place for Authorization and Approval of the Transfer of Said Projects as One Project to Westminster-Willard Associates Limited Partnership and for the Consent to the Formation of Said Partnership to Acquire, Undertake and Carry-Out the Project as an Urban Redevelopment Limited Partnership, All in Accordance with Chapter 121A of the Massachusetts General Laws and Chapter 652 of the Acts of 1960, Both as Amended, attached to which were copies of a document dated December 11, 1986 and entitled, "Amendment to the Report and Decisions on the Projects Respectively Known as Westminster Place and Willard Place for Authorization and Approval of the Transfer of Said Projects as One Project to Westminster-Willard Associates Limited Partnership and for the Consent to the Formation of Said Partnership to Acquire, Undertake and Carry-Out the Project as an Urban Redevelopment Limited Partnership, All in Accordance with Chapter 121A of the Massachusetts General Laws and Chapter 652 of the Acts of 1960, Both as Amended"; Exhibit A, "Regulatory Agreement Pursuant to Massachusetts General Laws Chapter 121A, Section 18C"; and a proposed vote.

Director Coyle outlined the Report and Decision and the conditions embodied therein.

The Chairman read a letter to the Board Members from the Westminster/Willard Steering Committee and noted that three of the four points raised in the letter were provided for in the agreement. He stated that the law already covered the other point raised and said it did not have to be stated again in the agreement.

The Chairman asked if the buyer understood and agreed to the conditions set forth in the agreement.

Attorney Witkin answered in the affirmative and referred the Members to page 4, Section D(4), (d), (vi), stating that he was confirming to the Board his understanding that that paragraph would be complied with upon their furnishing to the Board a Management Plan acceptable to the Authority.

The Chairman stated that he was satisfied that all the statutory requirements had been met.

On motion duly made and seconded, it was unanimously

VOTED: That the document presented at this meeting entitled, "Amendment to the Report and Decisions on the Projects Respectively Known as Westminster Place and Willard Place for Authorization and Approval of the Transfer of Said Projects as One Project to Westminster-Willard Associates Limited Partnership and for the Consent to the Formation of Said Partnership to Acquire, Undertake, and Carry-Out the Project as an Urban Redevelopment Limited Partnership, All in Accordance with Chapter 121A of the Massachusetts General Laws and Chapter 652 of the Acts of 1960, Both as Amended" be and hereby is approved and adopted.

On motion duly made and seconded, it was unanimously

VOTED: The Authority hereby establishes a fund, to be known as the "Westminster-Willard Affordability Fund", to consist of \$200,000 initially and all future

proceeds received by the Authority in connection with the settlement of certain litigation, namely, Boston Redevelopment Authority v. Back Bay Restorations Company, et al. (Land Court, Civil Action No. 116134), to be dedicated exclusively for the Project, except as hereinafter provided with the stated purpose that the Authority is authorized to expend monies from the fund for the sole benefit of the tenants of the Project, including but not limited to, expenditures for further rent subsidies or for providing equity for the acquisition of the Project as a cooperative. In the event adequate further rent subsidies are secured for the Project, the Authority may expend monies from such fund for other low and moderate income rental housing projects in the City of Boston.

The aforementioned documents entitled, "Amendment to the Report and Decisions on the Projects Respectively Known as Westminster Place and Willard Place for Authorization and Approval of the Transfer of Said Projects as One Project to Westminster-Willard Associates Limited Partnership and for the Consent to the Formation of Said Partnership to Acquire, Undertake and Carry-Out the Project as an Urban Redevelopment Limited Partnership, All in Accordance with Chapter 121A of the Massachusetts General Laws and Chapter 652 of the Acts of 1960, Both as Amended" and Exhibit A, "Regulatory Agreement Pursuant to Massachusetts General Laws Chapter 121A, Section 18C" are filed in the Document Book of the Authority as Document No. 4838.

(3) That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting, and a legally sufficient number of members of the Authority voted in a proper manner and all other requirements and proceedings under law incident to the proper adoption or the passage of said vote have been duly fulfilled, carried out and otherwise observed.

(4) That the document to which this certificate is attached is in substantially the form as that presented to said meeting.

(5) That if an impression of the seal has been affixed below, it constitutes the official seal of the Boston Redevelopment Authority and this certificate is hereby executed under such official seal.

(6) That Stephen Coyle is the Director of this Authority.

(7) That the undersigned is duly authorized to execute this certificate.

IN WITNESS WHEREOF the undersigned has hereunto set his hand this 16th day of December, 1986.

BOSTON REDEVELOPMENT AUTHORITY

By Kandice J. McLean
Secretary

LS

BOARD APPROVED *with extra vote*²
to establish a fund as in
page 5, Paragraph E

MEMORANDUM

DECEMBER 11, 1986

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: ROBERT F. MCNEIL, CHIEF GENERAL COUNSEL
KEVIN J. MORRISON, DEPUTY GENERAL COUNSEL

SUBJECT: AMENDMENT TO THE REPORT AND DECISIONS ON THE PROJECTS RESPECTIVELY
KNOWN AS WESTMINSTER PLACE AND WILLARD PLACE FOR AUTHORIZATION AND
APPROVAL OF THE TRANSFER OF SAID PROJECTS AS ONE PROJECT TO
WESTMINSTER-WILLARD ASSOCIATES LIMITED PARTNERSHIP AND FOR THE
CONSENT TO THE FORMATION OF SAID PARTNERSHIP TO ACQUIRE, UNDERTAKE
AND CARRY-OUT THE PROJECT AS AN URBAN REDEVELOPMENT LIMITED PARTNER-
SHIP, ALL IN ACCORDANCE WITH CHAPTER 121A OF THE MASSACHUSETTS
GENERAL LAWS AND CHAPTER 652 OF THE ACTS OF 1960, BOTH AS AMENDED

On November 4, 1986, the Authority voted to authorized the Chief General Counsel to prepare a favorable Amendment to the Report and Decisions (the "Amendment") on the Chapter 121A projects known respectively as Westminster Place and Willard Place, which would consolidate both projects as one project (the "Project"), contain such terms and conditions to insure that the same will be maintained and operated as low and moderate income rental or cooperative housing for the remainder of the Project's term under Chapter 121A and to consent to the formation of Westminster-Willard Associates Limited Partnership ("Partnership") to acquire, undertake and carry-out the Project.

On December 3, 1986, a proposed Amendment was submitted to the Authority for its review and evaluation. As a result of objections to certain provisions which were raised at the meeting by counsel for the applicants, V & M Management, Inc. and Shamir Construction Corporation, a revised Amendment as attached hereto is submitted to the Authority.

The main revision to the previously submitted Amendment is the deletion of the provision whereby in the event further rent subsidies are not available after the existing Housing Assistance Payments Contract ("Section 8 Rent Subsidy Contract") terminates, the Authority reserved the right to impose on the Project reasonable rules and regulations to insure affordability in the future. In place thereof, a new Section E has been added to the Amendment, whereby the Authority will establish a fund, to be known as the "Westminster-Willard Affordability Fund" to consist of \$200,000 initially and all future proceeds received by the Authority in connection with the settlement of certain litigation, Boston Redevelopment Authority v. Back Bay Restorations Company, et al., (Land Court, Civil Action No. 116134), to be dedicated exclusively for the Project. The staff has estimated that the Authority will receive between approximately \$1,500,000 and \$2,800,000, depending upon when the obligations due pursuant to such settlement are paid. The stated purpose

of the fund is that the Authority is authorized to expend monies therefrom for the sole benefit of the tenants of the Project, including but not limited to, expenditures for further rent subsidies in the event no rent subsidies are available in the future from other sources or for providing equity for the acquisition of the Project as a cooperative. In the event adequate rent subsidies are secured for the Project in the future, the Authority may expend monies from such fund for other low and moderate income rental housing projects in the City of Boston.

Under Section D(4)(c) of the Amendment, the Partnership must maintain in full force and effect and be subject to the existing Section 8 Rent Subsidy Contract, which provides subsidies for all of the 276 units in the Project, until the contract terminates. The Department of Housing & Urban Development has approved the assignment of this contract to the Partnership.

In addition, in accordance with the requirements of Section D(4)(d) of the Amendment, (1) the Partnership is obligated to provide at closing a total of \$488,000 to remedy existing and future code violations, (2) the Partnership, its general and limited partners, must agree to unconditionally guarantee the payment of any and all deficits which may arise from the operation of the Project, and (3) the Partnership must agree to provide to the Authority a letter of credit in the initial amount annually of \$200,000 to cover maintenance and operation deficiencies of the Project. The foregoing obligations will be set forth in agreements acceptable to the Chief General Counsel prior to the closing on the transfer of the Project.

It is recommended that the Authority approve and adopt the Amendment attached hereto, which complies with the beforementioned vote of the Authority on November 3, 1986.

An appropriate vote follows:

VOTED: That the document presented at this meeting entitled, "Amendment To The Report And Decisions On The Projects Respectively Known As Westminster Place And Willard Place For Authorization And Approval Of The Transfer Of Said Projects As One Project To Westminster-Willard Associates Limited Partnership And For The Consent To The Formation Of Said Partnership To Acquire, Undertake And Carry-Out The Project As An Urban Redevelopment Limited Partnership, All In Accordance With Chapter 121A Of The Massachusetts General Laws And Chapter 652 Of The Acts Of 1960, Both As Amended" be and hereby is approved and adopted.

BOSTON REDEVELOPMENT AUTHORITY

AMENDMENT TO THE REPORT AND DECISIONS ON THE PROJECTS RESPECTIVELY KNOWN AS WESTMINSTER PLACE AND WILLARD PLACE FOR AUTHORIZATION AND APPROVAL OF THE TRANSFER OF SAID PROJECTS AS ONE PROJECT TO WESTMINSTER-WILLARD ASSOCIATES LIMITED PARTNERSHIP AND FOR THE CONSENT TO THE FORMATION OF SAID PARTNERSHIP TO ACQUIRE, UNDERTAKE AND CARRY-OUT THE PROJECT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP, ALL IN ACCORDANCE WITH CHAPTER 121A OF THE MASSACHUSETTS GENERAL LAWS AND CHAPTER 652 OF THE ACTS OF 1960, BOTH AS AMENDED

A. Prior Authority Actions. Reference is made to the following:

1. On October 3, 1968, the Authority voted to adopt a Report and Decision on a project known as Westminster Place, Inc., such vote was approved by the Mayor of the City of Boston (the "Mayor") on October 16, 1968 and the vote as approved was filed with the Clerk of the City of Boston (the "City Clerk") on October 18, 1968. A First Amendment to this Report and Decision was adopted by vote of the Authority on December 4, 1969, such vote was approved by the Mayor on January 9, 1969 and the vote as approved was filed with the City Clerk on January 15, 1970.

2. On October 3, 1968, the Authority by vote adopted a Report and Decision on a project known as Willard Place, Inc., such vote was approved by the Mayor on October 16, 1968 and the vote as approved was filed with the City Clerk on October 18, 1968.

For the purpose of this Amendment, the foregoing are hereinafter referred to collectively as the "Report and Decisions" and the projects are referred to as, respectively "Westminster Place" and "Willard Place".

B. Application for Amendment. On September 2, 1986, V & M Management, Inc. and Shamir Construction Corporation (the "Applicants") jointly filed separate applications for approval by the Authority of the transfer of Westminster Place and Willard Place as previously authorized and developed under Chapter 121A of the Massachusetts General Laws ("Chapter 121A") and Chapter 652 of the Acts of 1960 ("Chapter 652"), both as amended, and for the consent to the acquisition of said projects and for the formation of separate limited partnerships to undertake and carry-out each project. On behalf of the Applicants, supplementary materials to the previously submitted applications were filed with the Authority on September 12, 1986 and October 31, 1986, wherein it was requested in part that the projects be consolidated into one project for the purposes of Chapter 121A and Chapter 652 and that they be transferred to and acquired by one entity, Westminster-Willard Associates Limited Partnership (the "Partnership"). For the purpose of this Amendment, the original applications and the supplementary materials are collectively referred to hereinafter as the "Application".

C. Hearings. On September 4, 1986, a public hearing was held by the Authority to consider the original applications, which hearing lasted for approximately three and one-half hours. Various individuals testified at the hearing in support of and in opposition to the proposed transfer of the projects. At the close of the public hearing, the Authority voted to continue the same. The public hearing was reconvened on September 25, 1986 and November 4, 1986 and at the end of the November 4th hearing, the Authority voted to authorize the Chief General Counsel to prepare this Amendment to the Report and Decisions. For purposes of this Amendment, the original hearing and the subsequent hearings hereinafter shall be referred to collectively as the "Public Hearings".

D. Authority Action. In acting hereunder, the Authority has considered the Application itself, all documents and exhibits filed therewith and referred to therein, the oral evidence and other information and material presented at the Public Hearings, sufficient in the Authority's judgment, to enable it to act as hereinafter set forth:

1. Revised Project Area and Project. The previously authorized and approved projects, Westminster Place and Willard Place, which contain together 276 dwelling units, shall be consolidated and hereafter considered one project (the "Project"). The revised Project Area and the Project shall include those parcels of land with the buildings thereon and the dwelling units contained therein referred to below.

a. Parcels 25 and P-12A, South End Urban Renewal Area, formerly the Project Area for Westminster Place, which includes:

(i) 10 Hammond Street, a seven-story building, containing 74 dwelling units and consisting of 7 studio units, 35 one-bedroom units and 32 two-bedroom units;

(ii) 22-26-30-34 Hammond Street, a four-story building, containing 16 four-bedroom dwelling units;

(iii) 1-5 Greenwich Street, a four-story building, containing 12 three-bedroom dwelling units;

(iv) 9 Greenwich Street, a four-story building containing 6 three-bedroom units; and

(v) 53-57A and 57B Windsor Street, a four-story building containing 8 dwelling units and consisting of 6 three-bedroom units and 2 four-bedroom units.

b. Parcel 29, South End Urban Renewal Area, formerly the Project Area for Willard Place, which includes:

(i) 1855 Washington Street, a seven-story building containing 112 dwelling units and consisting of 7 studio units, 77 one-bedroom units and 28 two-bedroom units.

(ii) 1825-1829-1833-1837-1841 Washington Street, a four-story building, containing 20 four-bedroom dwelling units;

(iii) 560 Shawmut Avenue, a four-story building containing 6 three-bedroom dwelling units;

(iv) 570-580 Shawmut Avenue, a four-story building containing 12 three-bedroom dwelling units; and

(v) 150-160 Northampton Street, a four-story building containing 10 dwelling units and consisting of 4 four-bedroom units and 6 three-bedroom units.

A legal description of the revised Project Area is set forth in the Application.

The Authority hereby determines that both the revised Project Area and the Project based on the consolidation of the two previously approved projects do not constitute a fundamental change in accordance with Chapter 652, Section 13A, as amended.

2. Cost of the Project. The Partnership proposes to acquire the Project for \$5,375,000 in accordance with two mortgages, a first mortgage to Patriot Bank, N.A. with an underlying note in the principal amount of \$4,000,000 for a term of five years and with an interest rate of 11.25% or the prevailing rate at the time of closing, and a second mortgage to V & M Management, Inc., the seller, with an underlying note in the principal amount of \$1,300,000 for a term of seven years and with an interest rate of 10% (collectively the "Original Mortgages").

3. Period of the Project. The Project shall be subject to Chapter 121A and Chapter 652 and this Amendment until October 18, 2008, forty years from and after the original approval date of the Report and Decisions on Westminster Place and Willard Place, which was October 18, 1968.

4. Rules and Regulations. Notwithstanding the minimum standards for financing, construction, maintenance and management of the original projects to the contrary, as set forth or referred to in the Report and Decisions, the Authority hereby adopts and imposes on the Project the following rules and regulations, which shall be applicable to the Project for as long as Chapter 121A and Chapter 652 are applicable thereto:

a. All subsequent or alternative financing or refinancing of the Project, including but not limited to, the granting or recording of any mortgages on the Project, shall be made only with the prior approval of the Authority. In addition, the total amount of any subsequent or alternative refinancing of the Original Mortgages shall be limited to the outstanding amount due, including principal and accrued or unpaid interest, on said mortgages and the underlying notes and any reasonable direct costs incurred in connection with such refinancing, unless otherwise approved by the Authority.

b. The projects were originally authorized and developed pursuant to the Report and Decisions for the purpose of providing "...desirable housing accommodations for low and moderate income families, especially those with children, of which there is a severe shortage in Boston..." and the Project

shall be operated and maintained by the Partnership or its successors and assigns until the end of the period of the Project, referred to above in Section 3, as low and moderate income rental or cooperative housing. In addition, no action shall be taken by the Partnership to convert the Project from residential rental housing to either cooperative or condominium ownership, which shall constitute a change in residential use and a fundamental change in the Project, without the prior approval of the Authority in accordance with Chapter 121A and Chapter 652.

c. The Partnership shall maintain in full force and effect and be subject to a certain Housing Assistance Payments Contract (the "Section 8 Rent Subsidy Contract") with the Department of Housing and Urban Development ("HUD"), as referred to in the Application, for the remainder of its term or for any extension periods approved by HUD, and it shall have the obligation to seek and accept further available rent subsidies for all of the dwelling units within the Project upon the termination of the Section 8 Rent Subsidy Contract.

d. The Partnership is required to:

(i) enter into along with its general partner, the sole stockholder of the general partner and the limited partners a certain Regulatory Agreement, with the Authority, as required by Chapter 121A, Section 18C, in substantially the form as attached hereto and marked Exhibit "A";

(ii) enter into a 6A Contract with the City of Boston, in accordance with Chapter 121A, Section 6A, the terms and conditions of which must be acceptable to the Commissioner of Assessing of the City of Boston and the Mayor;

(iii) enter into escrow agreement(s) with the Authority wherein the Partnership agrees to place in escrow a total of \$488,000 to remedy existing and future code violations and certain capital improvements, as set forth in the Application and specifically the supplementary material dated as of October 31, 1986;

(iv) enter into along with its general partner and limited partners an agreement with the Authority, wherein the Partnership, the general and the limited partners unconditionally guarantee the payment of any and all deficits which may arise from the operation of the Project;

(v) enter into an agreement with the Authority, wherein the Partnership agrees to provide to the Authority a letter of credit in the initial amount of \$200,000 annually to cover any maintenance and operating deficiencies of the Project; and

(vi) provide a tenant management plan for approval.

The terms and conditions of the agreements referred to in Section D(4) (d) (iii), (iv), and (v) above must be acceptable to the Authority's Chief General Counsel and the Authority's Director is hereby authorized to execute the agreements referred to in Section D(4) (d) (i), (iii), (iv), and (v), and approve the tenant management plan referred to in Section D(4) (d) (vi)

above on behalf of the Authority. All of the foregoing agreements must be executed by the Partnership and the tenant management plan must be approved prior to the closing in connection with the conveyance of the Project from V & M Management, Inc. to the Partnership.

e. All amounts due to either the Department of Revenue, Commonwealth of Massachusetts, under Section 10 of Chapter 121A or the City of Boston under Section 6A of Chapter 121A for the calendar years 1981 through 1985 shall be paid to respectively the Department of Revenue and the City of Boston and a provision shall be made for any estimated amounts that may be due under Sections 10 and 6A for calendar years 1986 and 1987 or parts thereof as of the date of the closing on the conveyance of the Project.

f. In the event the agreements and the tenant management plan referred to in Section D(4)(d)(i) to (vi) are not executed or approved and the closing in connection with the conveyance of the Project from V & M Management, Inc. to the Partnership does not occur by no later than one hundred fifty (150) business days from the date hereof, the Authority reserves the right to rescind the approval of this Amendment in all respects, unless an extension or extensions are approved by the Authority.

E. Commitment of Funds. The Authority hereby establishes a fund, to be known as the "Westminster-Willard Affordability Fund", to consist of \$200,000 initially and all future proceeds received by the Authority in connection with the settlement of certain litigation, namely, Boston Redevelopment Authority v. Back Bay Restorations Company, et al. (Land Court, Civil Action No. 116134), to be dedicated exclusively for the Project, except as hereinafter provided, with the stated purpose that the Authority is authorized to expend monies from the fund for the sole benefit of the tenants of the Project, including but not limited to, expenditures for further rent subsidies in the event no further rent subsidies are available from other sources or for providing equity for the acquisition of the Project as a cooperative. In the event adequate further rent subsidies are secured for the Project, the Authority may expend monies from such fund for other low and moderate income rental housing projects in the City of Boston.

F. Decision. The Authority hereby finds that the Amendment and the Project conforms to and complies with the provisions of Chapter 121A and Chapter 652, as now amended, and the Authority's "Rules and Regulations Governing Chapter 121A Projects In The City of Boston", and hereby further consents to the formation of Westminster-Willard Associates Limited Partnership to acquire, undertake and carry-out the Project in accordance with this Amendment, and the provisions of Chapter 121A and Chapter 652.

G. Severability. In the event any provision of this Amendment shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

REGULATORY AGREEMENT

Pursuant to Massachusetts General Laws
Chapter 121A, Section 18C

This Agreement (the "Agreement") is made this _____ day of _____, 198_, by and between WESTMINSTER-WILLARD ASSOCIATES LIMITED PARTNERSHIP, a limited partnership organized under and subject to the provisions of Chapter 109 and Chapter 121A ("Chapter 121A") of the Massachusetts General Laws (the "General Laws") and Chapter 652 of the Acts of 1960 ("Chapter 652"), all as amended, (the "Partnership"), EDAL DEVELOPMENT CORPORATION, a corporation organized under Chapter 156B of the General Laws which is the sole general partner of the Partnership, (the "General Partner"), EDMUND I. SHAMSI, individually as the owner and holder of all of the outstanding shares of common stock in the General Partner, (the "Sole Stockholder"), EDMUND I. SHAMSI, ALBERT A. SHAMSI, EHSAN BOKHOUR, AMIR BOKHOUR AND ELYAS BOKHOUR, individually as limited partners of the Partnership, (the "Limited Partners"), and BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate created and existing under Chapters 121 and 121B of the General Laws and acting hereunder pursuant to Chapter 121A, specifically Section 18C, and Chapter 652, (the "Authority"); (the Partnership, the General Partner, the Sole Stockholder and the Limited Partners are collectively referred to hereinafter as the "Parties").

WITNESSETH THAT:

WHEREAS, the Authority voted to adopt a separate Report and Decision on two projects (collectively the "Report and Decisions"), known as respectively Westminster Place and Willard Place (individually a "project" and collectively the "projects"), on October 3, 1968, such votes were approved by the Mayor of the City of Boston (the "Mayor") on October 16, 1968, and the votes as approved were filed with the Clerk of the City of Boston (the "City Clerk") on October 18, 1968 (the "Original Approval Date");

WHEREAS, separate applications (the "Applications") were filed with the Authority on September 2, 1986 by jointly, V & M Management, Inc, and Shamir Construction Corporation (the "Applicants"), for approval by the Authority of the transfer of the projects as previously authorized and developed under Chapter 121A and Chapter 652 and for the consent to the acquisition of said projects by and the formation of separate limited partnerships to undertake and carry-out each project;

WHEREAS, on behalf of the Applicants, supplementary materials to the Applications were filed with the Authority on September 12, 1986 and October 31, 1986, wherein it was requested in part that the projects be consolidated into one project for purposes of Chapter 121A and Chapter 652 and that they be transferred to and acquired by one entity, the Partnership.

WHEREAS, the Authority on _____, 198_ voted to adopt an Amendment to the Report and Decisions (the "Amendment"), approving the transfer of the projects as one project (the "Project") and consenting to the formation of the Partnership to acquire the Project, subject to the terms and conditions set forth therein (the Amendment is incorporated herein by reference), such vote was approved by the Mayor on _____, 19_, and the vote as approved was filed with the City Clerk on _____, 19_;

WHEREAS, pursuant to the Amendment and the provisions of Section 18C of Chapter 121A, the Partnership, the General Partner, the Sole Stockholder and the Limited Partners are required to enter into this Agreement with the Authority.

NOW THEREFORE, the Partnership, the General Partner, the Sole Stockholder and the Limited Partners agree for themselves, their successors and assigns, with the Authority as follows:

1. In accordance with Section D(1)(a) and (b) of the Amendment, the Project Area as revised and the Project shall include those parcels of land with the buildings thereon and the dwelling units contained therein (collectively the "Project Properties") referred to below:

a. Parcels 25 and P-12A, South End Urban Renewal Area, formerly the Project Area for Westminster Place, which includes:

(i) 10 Hammond Street, a seven-story building, containing 74 dwelling units and consisting of 7 studio units, 35 one-bedroom units and 32 two-bedroom units;

(ii) 22-26-30-34 Hammond Street, a four-story building, containing 16 four-bedroom dwelling units;

(iii) 1-5 Greenwich Street, a four-story building containing 12 three-bedroom dwelling units;

(iv) 9 Greenwich Street, a four-story building containing 6 three-bedroom units; and

(v) 53-57A and 57B Windsor Street, a four-story building containing 8 dwelling units and consisting of 6 three-bedroom units and 2 four-bedroom units.

b. Parcel 29, South End Urban Renewal Area, formerly the Project Area for Willard Place, which includes:

(i) 1855-Washington Street, a seven-story building containing 112 dwelling units and consisting of 7 studio units; 77 one-bedroom units and 28 two-bedroom units.

(ii) 1825-1829-1833-1837-1841 Washington Street, a four-story building, containing 20 four-bedroom dwelling units;

(iii) 560 Shawmut Avenue, a four-story building containing 6 three-bedroom dwelling units.

(iv) 570-580 Shawmut Avenue, a four-story building containing 12 three-bedroom dwelling units; and

(v) 150-160 Northampton Street, a four-story building containing 10 dwelling units and consisting of 4 four-bedroom units and 6 three-bedroom units.

A legal description of the Project Area as revised is set forth in Exhibit A, attached hereto and incorporated as a part hereof.

The Parties hereby acknowledge that the projects were originally authorized and developed pursuant to the Report and Decisions for the purpose of providing "...desirable housing accommodations for low and moderate income families, especially those with children, of which there is a severe shortage in Boston", and that the Project Properties shall be operated and maintained by the Partnership from the date hereof until the termination of this Agreement, as set forth in Paragraph 8 hereof, as low and moderate income rental or cooperative housing; provided, however, the conversion from rental housing to cooperative ownership shall be subject to the prior approval of the Authority in accordance with Paragraph 9 hereof.

2. The Partnership shall finance the acquisition of the Project Area as revised and the Project Properties in accordance with the mortgages (collectively the "Original Mortgages"), as set forth in Section D(2) of the Amendment. As long as this Agreement, Chapter 121A and Chapter 652 shall be applicable to the Project, all subsequent or alternative financing or refinancing, including but not limited to the granting or recording of any mortgages on the Project Area as revised and the Project Properties, shall be made only with the prior approval of the Authority. In addition, the total amount of any subsequent or alternative refinancing of the Original Mortgages shall be limited to the outstanding amount due, including principal and accrued or unpaid interest, on said mortgages and the underlying notes and any reasonable direct costs incurred in connection with the refinancing, unless otherwise approved by the Authority.

3. The Partnership shall maintain in full force and effect and be subject to: (a) a certain Housing Assistance Payments Contract, originally dated September 1, 1981, (the "Section 8 Rent Subsidy Contract") with the federal Department Housing and Urban Development ("HUD"), which was assigned to the Partnership by agreement, dated _____, 198____ and entitled "Assignment of Housing Assistance Payments Contract", between V & M Management, Inc., as assignor, and the Partnership, as assignee, with the consent of HUD, until the termination of such Section 8 Rent Subsidy Contract on January 1, 1996, or for any extension periods authorized by HUD, and (b) a certain "Use Agreement", dated _____, 198____, between the Partnership and HUD. Commencing on January 1, 1994 or upon the earlier termination of the Section 8 Rent Subsidy Contract, whichever occurs first, the Partnership shall be obligated to undertake all reasonable efforts on a continuous basis to seek and accept further rent subsidies for all of the dwelling units within the Project Properties, which may be available from city, state, federal or other sources. Such rent subsidies shall be at least equivalent to those established under the Section 8 Rent Subsidy Contract unless otherwise approved by the Authority. Every two months from and after January 1, 1994 or the earlier termination of the Section 8 Rent Subsidy Contract, whichever occurs first, the Partnership shall submit a report to the Authority which sets forth its efforts to secure such further rent subsidies with copies of related documentation, evidencing such efforts, attached thereto. The obligation of the Partnership to seek and accept further rent subsidies shall continue for the term of this Agreement, as set forth in Paragraph 8 hereof, unless the Partnership is released from such obligation by the Authority.

4. The Partnership shall keep accounts for the Project separate and apart from any other activities conducted by the Partnership, and shall not expend income derived therefrom other than as described in Chapter 121A, Sections 15 and 18C(e), upon or for the benefit of any other of its activities.

5. The Partnership shall comply with the provisions contained in Section 8 of Chapter 121A, as now amended, relative to the inspection of buildings and enforcement of compliance with the rules and regulations imposed on the Project, as set forth in the Amendment, and all other applicable provisions of Chapter 121A and Chapter 652, not specifically referenced herein.

6. The General Partner and the Limited Partners of the Partnership shall not receive or accept, while this Agreement is in force and effect, as net income from the Project, any sum in excess of six percent (6%) of the amount invested by them for each calendar year or parts thereof in which they own or have an interest in the Project, except that, if in any such year or part thereof they have so received a sum less than the aforesaid six percent (6%) they may receive in a subsequent year or years, additional sums not exceeding in the aggregate such deficiency, without interest. For purposes of this paragraph and Section 18C(e) of Chapter 121A, the term "amount invested" shall mean all cash and the fair market value of all other property contributed to the Partnership either in consideration of Partnership interests or otherwise, including but not limited to, (a) the cash payment to V & M Management, Inc., the seller, at the closing now contemplated to be \$75,000, which sum does not include funds furnished by the Partnership, the buyer, through purchase money or other loans to the Project, (b) all cash contributions made either at the closing or at any time thereafter by the Partnership to the Project (a portion of which shall be contributed in accordance with certain escrow agreements) which funds are to be used only for the benefit of the Project, including but not limited to, the amounts of any payments made by the general or limited partners and which is used to pay any operating costs of the Project, (c) the fair market value of all non-cash contributions of property to the Partnership, including but not limited to, shares of stocks, bonds, the assignment of promissory notes or other amounts receivable which property shall serve as conditional security for the general and/or limited partners obligations with respect to the Project and which shall be dedicated exclusively to the Project and shall not be used to pay management or developer fees or other distributions to the general or limited partners, (d) the amount of any reasonable legal or accounting costs or fees relating to the acquisition or closing of the Project, and (e) any additional equity invested which under generally accepted accounting principles would be treated as capital expenditures. In the event in any calendar year or part thereof, the General Partner or the Limited Partners of the Partnership receive or accept as net income from the Project a sum in excess of the beforementioned six percent (6%) of the amount invested plus any accrued deficiency, as determined by the Authority, the Partnership upon receipt of notice from the Authority shall expend an equivalent sum, as directed by the Authority, for the purposes as set forth in Section 15 of Chapter 121A and any amount not expended for such purposes shall upon notice from the Authority be paid to the City of Boston as an additional payment in accordance with the provisions of a certain 6A Contract between the City of Boston and the Partnership, of even date herewith (the "6A Contract").

Nothing contained in this paragraph shall be applicable to the distribution of profits from the sale of the capital assets, including the Project Area as revised and the Project Properties, of the Partnership.

7. In consideration of the exemption of the Partnership and its real and personal property which constitute the Project Area as revised and the Project Properties, referred to above in Paragraph 1 and described in Exhibit A attached hereto, from taxation, betterments, special assessments and from the payments of any tax, excise or assessment to or for the Project, it shall pay the excises with respect to the Project which a Chapter 121A entity would be bound to pay under the formulae and provisions set forth in Section 10 of Chapter 121A, and the sums as agreed upon between the Partnership and the City of Boston in accordance with the provisions of the 6A Contract.

8. Subject to the provisions of Paragraph 9 below, this Agreement shall commence on _____, 19__ and shall terminate on October 18, 2008, forty (40) years from the Original Approval Date (the "termination date"). Neither the Project nor the Partnership shall after the termination date be subject to the obligations of Chapter 121A, Chapter 652 and the Amendment, nor enjoy the rights and privileges thereunder or be subject to the terms, conditions and obligations of this Agreement, as provided in Section 18C of Chapter 121A. Notwithstanding the foregoing sentence, the right to any amounts due to the City of Boston from the Partnership in accordance with Paragraph 6 hereof shall survive the termination of this Agreement and shall be paid to the City of Boston in accordance with the 6A Contract.

9. If the Partnership and/or any mortgage lender or lenders to the Partnership propose, acting under the provisions of the third and last paragraph of Section 11 of Chapter 121A, Section 13A of Chapter 652, or under Section 16A of Chapter 121A, to transfer the Project, in whole or in part, to a different entity or entities, this Agreement shall, upon approval by the Authority of such transfer and at the option of the Authority, be terminated and a new Regulatory Agreement shall be entered into between the Authority and such transferee or transferees. The Partnership shall take no action to convert the Project Properties from residential rental housing to either cooperative or condominium ownership, which shall constitute a change in residential use and a fundamental change in the Project, without the prior approval of the Authority in accordance with Chapter 121A and Chapter 652.

10. This Agreement shall be binding upon and the benefits hereunder shall inure to the Partnership, the General Partner and the Limited Partners, their heirs, legal representatives, executors, administrators, successors in interest and assigns. Neither the General Partner nor the Limited Partners of the Partnership assume any personal financial liability under the terms of this Agreement beyond their respective interests in the Partnership, and the Project, except for any sums that may be due to the City of Boston under Paragraph 6 hereof, and any sums that they may be required to pay under any other agreement with the Authority, of even date herewith.

11. The General Partner and the Limited Partners shall not voluntarily transfer, assign, convey or sell, or in any manner hypothecate their respective interests in the Partnership and the Project at any time without the prior consent and approval of the Authority, and as a condition to any request to

permit a transfer of any such interest, they shall cause such proposed transferee or assignee to enter into a written agreement in form and content satisfactory to the Authority, wherein such assignee or transferee agrees to assume and/or be bound by the terms and provisions of this Agreement. The Sole Stockholder shall not voluntarily transfer, assign, convey or sell or in any manner hypothecate any of its shares of common stock in the General Partner without the prior consent and approval of the Authority.

12. Any transferee or person or entity succeeding to the rights and obligations and interests of the General Partner or the Limited Partners of the Partnership in the Project by operation of law, testamentary disposition, intestacy, or otherwise shall be deemed to have consented and agreed to be bound by the terms, covenants and conditions of this Agreement.

13. The Partnership agrees that it will, (a) maintain full and accurate accounts, records and books relative to the Project conforming to generally accepted accounting principles, (b) grant to the employees or representatives of the Authority at all times during normal business hours access to such of its accounts, records and books as relate to the Partnership's obligations under this Agreement, Chapter 121A and Chapter 652, as now or may be in the future amended, (c) permit the Authority or any accountants or auditors approved by it to make periodic audits of the Partnership's accounts and financial records at the Partnership's expense, which shall at all times be available in the Commonwealth of Massachusetts; and (d) furnish to the Authority such financial, operating, statistical and other reports, records, statements and documents on a uniform and consistent basis as may be periodically or on a one time basis required by the Authority and copies of contracts entered into by the Partnership or other documents in the possession of the Partnership as the Authority may from time to time require in connection with the Partnership's obligations under this Agreement, the Amendment and Chapter 121A or Chapter 652.

14. Any notices, reports, statements, approvals or other communications given or made pursuant to this Agreement shall be in writing. Such notices shall be either mailed by certified or registered mail (certified or registered charges prepaid) or served by an officer authorized to serve civil process. Notices to the Authority shall be mailed to or served upon its Director or a person designated by him at its principal office. Notice to the Partnership shall be mailed to or served upon the same or any persons designated by it at its principal office. The principal office of the Authority shall be deemed to be One City Hall Square, Ninth Floor, Boston, Massachusetts 02201, or such other place as the Authority may designate by written notice to the Partnership, and the principal office of the Partnership shall be deemed to be _____, Boston, Massachusetts, _____, or such other place as the Partnership may designate by written notice to the Authority.

15. The Partnership shall cause the Project to be in compliance with the Amendment and to all zoning, building, health, and fire laws, codes, ordinances and regulations in effect in the City of Boston and applicable thereto. Compliance by the Partnership with applicable laws, codes, ordinances and regulations, subject only to judicial review, shall be determined by the Inspection Services Department of the City of Boston or any successor department, agency, board or commission and all inspections to determine such compliance shall be conducted by it. Copies of any violation notices of

applicable laws, codes, ordinances and regulations received by the Partnership shall be provided to the Authority. The Partnership and its successors and assigns shall from time to time until the termination of this Agreement, as set forth in Paragraph 8 hereof, give to the duly authorized representatives of the Authority and others authorized by the Authority free and unobstructed access for inspection purposes to the Project Properties, all of the dwelling units and common areas contained therein and open areas surrounding the same.

16. The Partnership shall, at its own cost and expense, keep, operate and maintain the Project and the Project Area as revised or cause them to be kept, operated and maintained in good repair, order and condition at all times during the term of this Agreement. The Authority acknowledges that the Partnership has retained Barclay Management Company as its management agent to manage the Project and the Partnership agrees that any replacement management agent shall be subject to the prior approval of the Authority. The compensation to be paid by the Partnership to Barclay Management Company or any replacement management agent shall in no event exceed on an annual basis six percent (6%) of the gross income from the Project Properties.

17. The Parties hereby acknowledge that the Authority in accordance with Section E of the Amendment has established a fund, to be known as the "Westminster-Willard Affordability Fund", with the stated purpose that the Authority, except as provided therein, is authorized to expend monies from such fund for the sole benefit of the tenants of the Project, including but not limited to, expenditures for further rent subsidies in the event no further rent subsidies are available from other sources or for providing equity for the acquisition of the Project as a cooperative. Notwithstanding the foregoing, the Parties agree with the Authority that this acknowledgement shall in no event create any right in the Parties as to the application of the monies which constitute the fund.

18. All changes, deviations, alterations, or additions proposed to be made to the Project Properties and the Project Area as revised from and after the date hereof are subject to prior review and approval by the Authority.

19. The Partnership shall not effect or execute any covenant, agreement, lease, or other instrument whereby the Project as amended or any improvement therein is restricted upon the basis of race, sex, religion, creed, color or national origin or ancestry in the lease or occupancy thereof or employment therein.

20. The Authority may enforce compliance with any of the provisions of this Agreement, Chapter 121A, Chapter 652 or any of its rules and regulations imposed on the Project by an action at law or equity in a court of appropriate jurisdiction. The Partnership shall pay to the Authority all reasonable costs and expenses, including attorneys fees, which may be incurred by the Authority in proceedings brought to enforce compliance, to the extent the Authority prevails and the Authority shall pay to the Partnership all such costs incurred by it, to the extent the Partnership prevails.

21. If the provisions of this Agreement conflict with the provisions of the Amendment, the provisions of this Agreement shall govern.

22. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction such holding shall not invalidate or render unenforceable any other provisions hereof.

23. This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

24. This Agreement shall be executed in recordable form and shall be recorded along with the deed or deeds from V & M Management, Inc, to the Partnership conveying the Project Area as revised and the Project Properties.

EXECUTED, as a sealed instrument as of the day first above written.

WESTMINSTER-WILLARD ASSOCIATES
LIMITED PARTNERSHIP
BY ITS GENERAL PARTNER, EDAL
DEVELOPMENT CORPORATION

By: _____
Edmund I. Shamsi, President of
Edal Development Corporation

EDAL DEVELOPMENT CORPORATION

By: _____
Edmund I. Shamsi, President

By: _____
Edmund I. Shamsi, Individually as
the Sole Stockholder of Edal Cor-
poration and as a Limited Partner
of Westminster-Willard Associates
Limited Partnership

By: _____
Albert A. Shamsi, Individually as
a Limited Partner of Westminster-
Willard Associates Limited
Partnership

By: _____
Eshan Bokhour, Individually as a
Limited Partner of Westminster-
Willard Associates Limited
Partnership

By: Amir Bokhour, Individually as a
Limited Partner of Westminster-
Willard Associated Limited
Partnership

By: Elyas Bokhour, Individually as a
Limited Partner of Westminster-
Willard Associates Limited
Partnership

BOSTON REDEVELOPMENT AUTHORITY:

By: Stephen Coyle, Director

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss. _____, 198_

Then personally appeared before me the above-named, Edmund I. Shamsi, who executed the foregoing Regulatory Agreement respectively, in his capacity as President of Edal Development Corporation, the General Partner of Westminster-Willard Associates Limited Partnership, individually as the owner and holder of all of the outstanding shares of common stock of Edal Development Corporation, and individually as a Limited Partner of Westminster-Willard Limited Partnership, and acknowledged the same to be his free act and deed.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss. _____, 198_

Then personally appeared before me the above-named, Albert A. Shamsi, who executed the foregoing Regulatory Agreement individually as a Limited Partner of Westminster-Willard Associates Limited Partnership, and acknowledged the same to be his free act and deed.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

_____, 198_

Then personally appeared before me the above-named, Eshan Bokhour, who executed the foregoing Regulatory Agreement individually as a Limited Partner of Westminster-Willard Associates Limited Partnership, and acknowledged the same to be his free act and deed.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

_____, 198_

Then personally appeared before me the above-named, Amir Bokhour, who executed the foregoing Regulatory Agreement individually as a Limited Partner of Westminster-Willard Associates Limited Partnership, and acknowledged the same to be his free act and deed.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

_____, 198_

Then personally appeared before me the above-named, Elyas Bokhour, who executed the foregoing Regulatory Agreement individually as a Limited Partner of Westminster-Willard Associates Limited Partnership, and acknowledged the same to be his free act and deed.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

_____, 198_

Then personally appeared before me the above-named, Stephen Coyle, who executed the foregoing Regulatory Agreement in his capacity as the Director of the Boston Redevelopment Authority and acknowledged the same to be his free act and deed.

Notary Public

My Commission Expires:

EXHIBIT A TO REGULATORY AGREEMENT

LEGAL DESCRIPTION OF PROJECT AREA AS REVISED

Regulatory Agreement: MBH Associates Chapter 121A Project

REGULATORY AGREEMENT

Pursuant to Massachusetts General Laws
Chapter 121A, Section 18C

MBH Associates

and

Boston Redevelopment Authority

DATED: October 26, 1989

REGULATORY AGREEMENT

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- "A" Legal Description of Project Area
- "B" Contract Document Approval
- "C" Memorandum of Understanding As Amended
- "D" 6A Contract Amendment

REGULATORY AGREEMENT

Pursuant to Massachusetts General Laws
Chapter 121A, Section 18C

This Regulatory Agreement (the "Agreement") is made this 26 day of October, 1989, by and between MBH ASSOCIATES, a Massachusetts limited partnership having a principal business office c/o Hamilton Realty Company, 39 Brighton Avenue, Boston, Massachusetts 02135 (hereinafter referred to as "MBH Associates" or the "Partnership"), and BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate, organized and existing pursuant to Chapter 121B, as amended, of the Massachusetts General Laws ("Chapter 121B") and acting hereunder pursuant to the Massachusetts Acts and Resolves of 1960, Chapter 652, as amended ("Chapter 652"), and Chapter 121A, as amended, of the Massachusetts General Laws (except as otherwise stated herein, these statutes, not including Chapter 121B, are hereinafter collectively and in their entirety referred to as "Chapter 121A"), having a principal business office at One City Hall Square, Boston, Massachusetts 02201 (hereinafter referred to as the "Authority"). Collectively, the Partnership and the Authority are hereinafter referred to as the "Parties".

PRELIMINARY STATEMENT

An application was filed with the Authority on behalf of B&M Associates, dated November 8, 1979 (the "Application"), for approval under Chapter 121A, as then amended, of a project to be located on certain sub-parcels of Parcel 13 of the Fenway Urban Renewal Plan, as then amended (the "Fenway Plan"), consisting of the rehabilitation of four buildings into approximately 44 units of rental housing, 21,000 square feet of commercial space and the operation of an open air parking lot, all as more particularly described in the application (the "Project"). On January 24, 1980, the Authority adopted by vote a Report and Decision approving the Application (the "Report and Decision"). Such vote was approved by the Mayor of the City of Boston (the "Mayor") on February 12, 1980, and the vote as approved was filed with the Clerk of the City of Boston (the "City Clerk") on February 19, 1980.

The Report and Decision was subsequently amended by votes of the Authority on respectively March 20, 1980 (the "First Amendment"), February 16, 1989 (the "Second Amendment"), and June 29, 1989 (the "Third Amendment"). All of the foregoing votes and related amendments were approved by the Mayor and filed with the City Clerk as required by Chapter 652, Section 12 (first paragraph). The Third Amendment was filed with the City Clerk on July 25, 1989. Collectively, the Report and Decision and the First, Second and Third Amendments thereto shall hereinafter be referred to as the "Amended Report and Decision" and they or it are incorporated as a part of this Agreement by reference.

The First Amendment changed the name of the limited partnership, authorized to undertake and own the Project, from B&M Associates to MBH Associates. On April 11, 1980, the Authority and MBH Associates entered into a certain Land Disposition Agreement to convey Parcels 13B, 13C, 13D, 13E and 13F of the Fenway Plan and the Authority, as grantor, executed a Deed for such parcels to MBH Associates, as grantee. The Land Disposition Agreement and the Deed were recorded in the Suffolk County Registry of Deeds at Book 9426, respectively Pages 162 and 184. MBH Associates entered into a certain contract with the City of Boston (the "City") dated as of June 24, 1980, pursuant to Chapter 121A, Section 6A (the "6A Contract"), which contract is incorporated as a part of this Agreement by reference.

The Second Amendment authorized, in part, a revision to the Project to include the development of the existing open air parking lot on what is referred to therein as the Haviland Street Property (hereinafter referred to as "Parcel 13F") into one building (the "Building") with a parking garage (the "Garage Component") and a two-story (with the option of adding a third story) clinic facility (the "Clinic Component") for the Fenway Community Health Center, Inc. (the "Fenway Health Center"). The Third Amendment authorized, in part, a change in the size of the Clinic Component to a three-story facility and the execution of a certain amendment to the 6A Contract. On the date of this Agreement, the Parties entered into

Contract. On the date of this Agreement, the Parties entered into a separate Amendment to the Land Disposition Agreement (the "LDA Amendment") which, in part, authorizes the construction of the Building, consisting of the Garage and Clinic Components on Parcel 13F in accordance with certain duly adopted minor modifications to the Fenway Plan. The LDA Amendment is recorded along with this Agreement.

Further, the Third Amendment, Section D(5), required MBH Associates to comply with four pre-conditions prior to filing an application for any building permit with the City's Inspectional Services Department. One of the pre-conditions (specifically Section D(5), subsection (a)), required MBH Associates to enter into with the Authority a Regulatory Agreement or an Amended and Restated Regulatory Agreement pursuant to Chapter 121A, Section 18C. This Agreement is the contemplated Regulatory Agreement.

NOW, THEREFORE, the Partnership agrees for itself, its successors and assigns, with the Authority, as follows:

1. Prior Regulatory Agreement(s) Superseded. This Agreement shall supersede and replace in its entirety any other Regulatory Agreement, previously executed between the Authority and the Partnership, under the name MBH Associates or B&M Associates.

2. Project Area; Original Project; Project As Revised by Third Amendment; Zoning Deviations.

a. Project Area. The Project Area consists of five parcels of land with the existing buildings thereon known as Parcels 13B, 13C, 13D, 13E and 13F of the Fenway Plan and bounded by Massachusetts Avenue, Boylston, Hemenway and Haviland Streets, as more fully described in the Report and Decision and the Application. A legal description of each of the respective parcels is set forth in Exhibit "A" attached hereto and incorporated as a part of this Agreement. There were a total of four existing buildings, one each on Parcel 13B, 13D, 13D and 13E, and Parcel 13F was

vacant land being used as an open air parking lot.

b. Original Project. The Project, as authorized by the Report and Decision, involved major rehabilitation of the four buildings on respectively Parcels 13B (1078 and 1080 Boylston Street), Parcel 13C (1088-1094 Boylston Street), Parcel 13D (1100 and 1102 Boylston Street) and Parcel 13E (1120-1130 Boylston Street) (collectively the "Boylston Street Properties") into 44 rental housing units, approximately 21,000 square feet of commercial and office space with an improved open air parking lot on Parcel 13F which would serve the Project's residential and commercial tenants (the "Original Project").

c. Project As Revised by Third Amendment. The Project was revised in the Third Amendment by authorizing the improvement of Parcel 13F as follows:

(i) The Partnership may construct the Building which will contain the Garage Component with approximately 38 parking spaces to serve the residential, commercial and institutional tenants of the Project, and the Clinic Component consisting of three stories above the Garage Component, containing approximately 6,000 square feet per story, for a total of approximately 18,000 square feet. The Building will be designed to include a foundation and footings to support a three-story Clinic Component. In the event a fourth story is subsequently proposed or constructed in the future, the exterior wall of said fourth floor adjacent to the entire land and building located at 13 Haviland Street (collectively hereinafter referred to as "13 Haviland Street") shall be set back 20 feet from the Building line. Such fourth floor may be built in such a manner as is reasonably necessary to preserve the consistency of the front facade of the Building facing Haviland Street.

(ii) On the Haviland Street level, the property may be improved on the land not used for the Building by a vehicular access way and landscaped open space. Provided, however, that the land between the Building and 13 Haviland Street, except as provided in (iv) below, shall remain open space with tree and yew plant-

ing and other consistent open space improvements. No vehicles, parking, storage, including trash or dumpsters, shall be allowed at any time on that part of the property located between the Building and 13 Haviland Street.

(iii) After completion of the Building, the Partnership, for nominal consideration or as a donation, will convey to the Fenway Health Center fee title, including appurtenant easements for access, support, utilities, use, maintenance, etc., to the Clinic Component, using air rights or such other acceptable means, but not including condominiumization under Chapter 183A of the General Laws, and such title shall be free and clear of any mortgages, liens, attachments or other encumbrances. Upon the recording of both a Certificate of Completion for the Building and related improvements, as issued by the Authority to the Partnership in accordance with Section 5(b) of this Agreement, and the instrument of conveyance in connection with the transfer of fee title to the Clinic Component from the Partnership to the Fenway Health Center, the Clinic Component shall be severed from the Project Area and the Project and shall be released from all applicable restrictions, benefits and exemptions, imposed or conferred by Chapter 121A, as more fully described in Section 10 of this Agreement. Fee title to the Garage Component and the air rights above the three-story Clinic Component shall be retained exclusively by the Partnership as part of the Project and shall be subject to Chapter 121A, and the Amended Report and Decision for the remainder of the term, as set forth in Section 9 of this Agreement. Ownership of the Boylston Street Properties and the related parcels, which comprise the rest of the Project, shall remain exclusively with the Partnership.

(iv) Prior to completion of construction of the Clinic Component, the Partnership and the Fenway Health Center shall enter into a license agreement or other like agreement with the owner of the property located at 13 Haviland Street for the purposes of installing, repairing and maintaining a brickwork area and a boiler smokestack in accordance with the terms and conditions set forth in Section D(3), subsections (c), (4) and (5) of the Third Amend-

ment. The foregoing requirement may be waived if the owner of the indicated property elects not to enter into such agreement, or if the Authority's Director determines, in his discretion, that the parties cannot reach a mutually acceptable agreement, consistent with the approved terms and conditions.

(d) Zoning Deviations. The Authority ratified and confirmed in Section D(2) subsection (b) of the Third Amendment those deviations from the Boston Zoning Code granted for the original Project, referenced in Section J of, and set forth in Exhibit "A" to, the Report and Decision (the "Original Zoning Deviations"), and those additional deviations, referenced in Section E(7) of, and set forth in Exhibit "A" to, the Second Amendment (the "Parcel 13F Zoning Deviations") (collectively and in their entirety the "Zoning Deviations"). All of the Zoning Deviations were granted by the Authority with the approval of the Mayor in accordance with Chapter 652, Section 13 (ninth paragraph), as amended. The Original Zoning Deviations were effective as of February 19, 1980, the date the Report and Decision was filed with the City Clerk. The Parcel 13F Zoning Deviations were effective as of March 24, 1989, the date the Second Amendment was filed with the City Clerk. The Authority agrees to cooperate with the Partnership in securing any required approvals or permits from City agencies, departments or boards in order to construct or reconstruct the Project, or any part thereof. In this regard, upon request by the Partnership, the Authority will provide to appropriate City agencies, departments or boards, including but not limited to the Inspectional Services Department, written confirmation that both the Original Zoning Deviations and the Parcel 13F Zoning Deviations were granted.

3. Compliance with Rules and Regulations. In the Third Amendment, Section D(5), subsections (a) to (d), the Authority imposed, as rules and regulations on the development of Parcel 13F, four (4) pre-conditions which the Partnership must comply with prior to filing an application for any building permit with the City's Inspectional Services Department. The four pre-conditions, which the Authority hereby acknowledges have been complied with by

the Partnership, are as follows:

(a) Design Approval. Submission to the Authority for its review and approval all plans and specifications for the development of Parcel 13F. Contract document approval was granted to the Partnership on July 13, 1989, as evidenced by the letter of that date with an enclosed list of architectural drawings, from the Authority's Director of Urban Design, a copy of which is set forth in Exhibit "B" attached hereto and made a part of this Agreement. The architectural drawings are hereinafter referred to as the "Approved Contract Documents". Any modification of, or changes to, the Approved Contract Documents are subject to the prior approval of the Authority.

(b) Memorandum of Understanding with Fenway Health Center. Enter into a Memorandum of Understanding on other agreement with the Fenway Health Center, the terms and conditions of which must be acceptable to the Authority's Director. The Authority acknowledges that a certain Memorandum of Understanding dated as of January 31 1989, and a certain First Amendment to Memorandum of Understanding, dated as of July 28, 1989, both by and between the Partnership and the Fenway Health Center were executed (collectively the "Memorandum of Understanding As Amended"), copies of which are set forth in Exhibit "C" attached hereto and incorporated as a part of this Agreement. The Memorandum of Understanding As Amended is acceptable to the Authority's Director to the extent the same does not conflict with, or is inconsistent with, the provisions of the Third Amendment and this Agreement.

(c) Regulatory Agreement. Enter into with the Authority a Regulatory Agreement or an Amended and Restated Regulatory Agreement pursuant to the requirements of Chapter 121A, Section 18C and containing such other terms and conditions, not inconsistent with the Third Amendment, as the Authority's Director in his discretion deems appropriate and necessary. This Agreement is the contemplated Regulatory Agreement.

(d) 6A Contract Amendment. Enter into a 6A Contract Amendment with the City of Boston, substantially in the form as attached to the Third Amendment. As of the date of this Agreement, a 6A Contract Amendment acceptable to the Authority was fully executed, a copy of this 6A Contract Amendment is set forth in Exhibit "D", attached hereto and incorporated as a part of this Agreement.

4. Financing; Mortgages. The Partnership may encumber, pledge or convey its right, title and interest in and to Parcel 13F by way of a bona fide mortgage and/or security agreement to secure any loan or loans, not to exceed in the aggregate \$3,575,000 except as provided below, from institutional lenders to finance the development and construction of the improvements to Parcel 13F, as contemplated by this Agreement (the "Parcel 13F Improvements"). Notwithstanding the foregoing loan amount limitation, the Partnership may secure a loan or loans exceeding such amount with the prior approval of the Authority's Director; provided that, the same are to be expended for costs of the Parcel 13F Improvements. The Partnership agrees to provide notice to the Authority prior to the closing of all loans and mortgages in connection with the Parcel 13F Improvements and submit after closing copies of loan documentation, including loan agreements, notes and mortgage and/or security agreements. As long as this Agreement and/or Chapter 121A shall be applicable to the Project (including without limitation the Original Project and Parcel 13F), all subsequent or alternative, secured or unsecured, permanent financing or refinancing, other than as authorized under this Section or in existence as of June 29, 1989, shall be made only with the prior approval of this Authority.

5. Commencement and Completion of Construction; Inspections and Certificate of Completion.

(a) Commencement and Completion of Construction. The Partnership shall begin construction of the Parcel 13F Improvements in accordance with the Approved Contract Documents within sixty

(60) business days of the date of this Agreement (the "Construction Commencement Date"). The Partnership shall diligently prosecute to completion such improvements no later than eighteen (18) calendar months from the Construction Commencement Date, or as that period of time may be extended with the approval of the Authority's Director, which approval shall not be unreasonably withheld. Prior to the Construction Commencement Date, the Partnership shall submit to the Authority for its approval a detailed estimated construction progress schedule in a format generally used in the construction of buildings. This schedule shall be revised as construction proceeds from time to time, but not less frequently than every three (3) months, and whenever a delay of more than thirty (30) business days is anticipated, and such revisions shall be promptly submitted to the Authority. Any submission of a revised construction schedule shall be accompanied by a written report by the Partnership citing adjustments to the progress forecast, analyzing the causes thereof, and, where applicable, noting corrective efforts which shall be reasonably satisfactory to the Authority's Director.

(b) Inspections and Certificate of Completion. The construction work of the Partnership shall be subject to inspection from time to time by representatives of the Authority to determine if the Parcel 13F Improvements are being constructed in accordance with the Approved Contract Documents, as they may be modified, the Third Amendment and this Agreement (the "Parcel 13F Project Plans"). The construction of the improvements shall be deemed completed when built substantially in accordance with Parcel 13F Project Plans, as determined by the Authority. Upon receipt of a request from the Partnership for the issuance of a Certificate of Completion, the Authority may issue the Certificate of Completion after a reasonable time for the Authority's representatives to finalize an inspection and issue a report. A Certificate of Completion issued by the Authority shall be in such form as will enable recordation in the Suffolk County Registry of Deeds. Such certificate by the Authority shall constitute a conclusive determination of the satisfaction of the terms and conditions of this Agreement with respect to the obligations of the Partnership to con-

struct the Parcel 13F Improvements, except for those aspects to be completed thereafter or by others. Notwithstanding any provision of this Section to the contrary, the Authority shall not be obligated to issue a Certificate of Completion unless the requirement of Section 2(c), (iv) of this Agreement has been satisfied by the Partnership and/or the Fenway Health Center, or has been waived by the Authority's Director.

6. Separate Accounts; Expenditure of Project Income.

The Partnership shall keep its financial accounts for the Project (including without limitation the Original Project and Parcel 13F) separate and apart from any other activities conducted by the Partnership and shall not expend income derived therefrom other than as described in Chapter 121A, Sections 15 and 18C(e), upon or for the benefit of any other of its activities.

7. Return Restriction. The general and limited partners of the Partnership shall not receive or accept as net income from the Project (including without limitation the Original Project and Parcel 13F) any sum in excess of eight percent (8%) of the amount invested by them in the Project for each calendar year or parts thereof in which they own or have owned an interest in the Project, except that, if in any such year or part thereof, they have so received a sum less than the aforesaid eight percent (8%) they may so receive in a subsequent year or years, additional sums not exceeding in the aggregate such deficiency, without interest. For purposes of this Section, the term "amount invested", as set forth in Chapter 121A, Section 18C (e), shall mean the aggregate of the capital contributions, less any repayments, of each general or limited partner. In the event in any calendar year or part thereof the general or limited partners of the Partnership receive or accept as net income a sum in excess of the beforementioned eight percent (8%) of the amount invested plus any accrued deficiency, as determined by the Authority, the Partnership upon receipt of notice from the Authority shall expend an equivalent sum, as directed by the Authority, for the purposes as set forth in Chapter 121A, Section 15 and any amount not expended for such purposes

shall upon notice from the Authority be paid to the City of Boston. Nothing contained in this Section shall be applicable to the distribution of profits from the sale of the capital assets of, or general or limited partner interests in, the Partnership. This Section shall be in force and effect for the period from and after February 19, 1980 until this Agreement and Chapter 121A are no longer applicable.

8. Urban Redevelopment Excise Tax; 6A Contract Amendment.

(a) Urban Redevelopment Excise Tax. In consideration of the exemption of the Partnership and its real and personal property, which constitutes the Project (including without limitation the Original Project and Parcel 13F), from taxation, betterments, special assessments and from the payment of any other tax, excise or assessment to the Commonwealth of Massachusetts or any of its potential subdivisions on account of the Project, the Partnership shall pay the Urban Redevelopment Excise Tax with respect to the Project which a Chapter 121A entity would be bound to pay under the formulae and provisions set forth in Chapter 121A, Section 10, as may be amended from time to time.

(b) 6A Contract Amendment. In addition to the Urban Redevelopment Excise Tax, the Partnership shall pay to the City such sums as agreed in the 6A Contract Amendment. If the Partnership does not commence construction of the Parcel 13F Improvements or diligently prosecute the construction of such improvements to completion in accordance with Section 5(a) of this Agreement, the Authority's Director, acting in his discretion, may by written notice to the City's Commissioner of Assessing and/or the Board of Assessors, determine and direct that the right of the Partnership to make payments to the City under the formula set forth in subparagraph 1(d)(iv) of the 6A Contract, as added by Section 1 of the 6A Contract Amendment, and the obligation of the Board of Assessors to make fair cash value determinations in accordance with Section 4 of the 6A Contract Amendment, shall both be suspended and/or revoked, for such period(s) of time as he shall determine, including the full remainder of the period of the tax exemption for the

Project, and during such period(s) the Partnership shall be obligated to make payments to the City under sub-paragraph 1(d)(iii) of the 6A Contract.

9. Term of Agreement. This Agreement shall be deemed to have commenced on February 19, 1980 the ("Initial Approval Date") and shall continue in full force and effect for a term of fifteen (15) years from and after the Initial Approval Date. Neither the Project (including without limitation the Original Project and the Parcel 13F) nor the Partnership shall at the expiration of the beforementioned fifteen (15) year term be subject to the restrictions and obligations under the Amended Report and Decision and this Agreement, except that the obligation to pay any amounts that may be due the City pursuant to Section 7 of this Agreement shall survive the expiration of the term. From and after the expiration date, the Project shall be released from all applicable restrictions, benefits and exemptions, imposed or conferred by Chapter 121A, as provided in Chapter 121A, Section 18C. Notwithstanding the generality of the preceding sentence, the Zoning Deviations referred to in Section 2 (d) of this Agreement, shall survive the expiration date and remain in full force and effect in accordance with applicable law. The Project after the expiration date will no longer be exempt from taxes, excises or assessments, as set forth in Chapter 121A, Section 10 and shall thereafter be subject to any and all real and personal property taxes, excises and assessments to the extent imposed by Chapter 59 of the Massachusetts General Laws, as amended, ("Chapter 59") and other applicable laws."

10. Severance of Clinic Component from Project Area and Project. Notwithstanding the normal expiration date referred to in Section 9 of this Agreement, the Clinic Component may be severed sooner from the Project Area and the Project upon the occurrence of two (2) pre-conditions, as set forth in Section 2(c), (iii) of this Agreement, namely the recording of both a Certificate of Completion for the Parcel 13F Improvements (including but not limited to both the Garage and Clinic Components) and an instrument of conveyance in connection with the transfer of fee title for the Clinic Component to the Fenway Health Center. From and after such recording

date, the Clinic Component and the Partnership, in regard to the Clinic Component only, shall be released from, and the Fenway Health Center shall not be subject to, applicable restrictions, benefits and exemptions, imposed or conferred by Chapter 121A. Notwithstanding the generality of the preceding sentence, the Parcel 13F Zoning Deviations, referred to in Section 2 (d) of the Agreement, shall survive the recording date and remain in full force and effect in accordance with applicable law. The Clinic Component after the recording date will not be exempt from taxes, excises or assessments, as set forth in Chapter 121A, Section 10 and shall thereafter be subject to any and all real and personal property taxes, excises and assessments to the extent imposed by Chapter 59 and other applicable laws.

11. Project Transfers; Voluntary Transfers of Partnership Interests; Involuntary Transfers of Partnership Interests; Condominium or Cooperative Form of Ownership.

(a) Project Transfers. If the Partnership and/or the mortgage lender or lenders to the Partnership propose, acting either under the provisions of Chapter 121A, Section 11 (third and last paragraph) and Chapter 652, Section 13A, or under Chapter 121A, Section 16A, to sell, convey, exchange, give or otherwise transfer (collectively, "transfer") the Project, in whole or in part, to another Chapter 121A or other entity or entities, this Agreement shall upon the prior approval of such transfer(s) and the transferee(s) by the Authority and at the option of the Authority, be terminated or amended and new Regulatory Agreements, pursuant to Chapter 121A, Section 18C, shall be entered into between the Authority and such transferee or transferees. Notwithstanding any transfer under Chapter 121A, Section 16A, the Partnership acknowledges and agrees that the Project and the transferee or transferees shall remain subject to the Amended Report and Decision, this Agreement and Chapter 121A. Any severance of the Clinic Component from the Project Area and the Project, as referred to in Section 10 of this Agreement, shall not constitute a transfer under Chapter 121A.

(b) Voluntary Transfers of Partnership Interests. The Partnership and its general and limited partners shall not voluntary transfer, assign, convey or sell, or in any manner hypothecate any partnership interest in the Project at any time without the prior consent and approval of the Authority, and as a condition to any request to permit a transfer of any such partnership interests it shall cause such proposed transfer or assignee to enter into a written agreement in form and content satisfactory to the Authority, wherein such transferee or assignee agrees to assume and/or be bound by the terms and conditions of this Agreement. Any and all changes in general and limited partners of the Partnership or their respective partnership interests are subject to the Authority's prior approval.

(c) Involuntary Transfers of Partnership Interests. Any transferee or person or entity succeeding to the rights and obligations and interest of the general and limited partners of the Partnership in the Project by operation of law, testamentary disposition, intestacy, or otherwise shall be deemed to have consented and agreed to be bound by the terms, covenants and conditions of this Agreement.

(d) Condominium or Cooperative Form of Ownership. The Partnership shall take no action to convert the Project (including without limitation the Original Project and the Parcel 13F) to either a condominium or cooperative form of ownership under applicable law, which shall constitute a fundamental change in the Project, without the prior approval of the Authority in accordance with Chapter 121A.

12. Accounts, Records and Books; Access by Authority Representatives; Financial Reports, Statements, etc. The Partnership agrees that it will: (a) maintain full and accurate accounts, records and books relative to the Project (including without limitation the Original Project and Parcel 13F) conforming to general accepted accounting principles; (b) grant to the employees or repr-

esentatives of the Authority at all times during normal business hours access to such of its accounts, records and books as relate to the Partnership's obligations under this Agreement, and Chapter 121A, as now or may be in the future amended; (c) permit the Authority or any accountants or auditors approved by it to make periodic audits of the Partnership's accounts and financial records at the Partnership's expense, which shall at all times be available in the Commonwealth of Massachusetts; and (d) furnish to the Authority such financial, operating, statistical and other reports, records, statements and documents on a uniform and consistent basis as may periodically or on a one time basis be required by the Authority and copies of contracts entered into by the Partnership, or other documents in the possession of the Partnership, as the Authority may from time to time require in connection with the Partnership's obligations under this Agreement and Chapter 121A.

13. Compliance with Applicable Laws, Codes, Ordinances and Regulations. The Partnership shall cause the Project (including without limitation the Original Project and Parcel 13F) to be in compliance with the Amended Report and Decision, the Approved Project Plans as modified, this Agreement and to all zoning, building, health, and fire laws, codes, ordinances and regulations in effect in the City of Boston and applicable thereto. Compliance by the Partnership with applicable laws, codes, ordinances and regulations, subject only to judicial review, shall be determined by the City's Inspectional Services Department or any successor department, agency, board or commission and all inspections to determine such compliance shall be conducted by it. Copies of any violation notices of applicable laws, codes, ordinances and regulations received by the Partnership shall be provided to the Authority. The Partnership and its successors and assigns shall from time to time until the expiration of this Agreement, as set forth in Section 9 of this Agreement, give to the duly authorized representatives of the Authority and others authorized by the Authority free and unobstructed access for inspection purposes to the Project, all of the residential and commercial areas and common areas contained therein and open areas surrounding the same.

14. Project Maintenance and Management. The Partnership shall, at its own cost and expense, keep, operate and maintain the Project (including without limitation the Original Project and Parcel 13F), or cause it to be kept, operated and maintained in good repair, order and condition at all times during the term of this Agreement. The Partnership may manage the Project itself, or employ an independent contractor to undertake such management. The compensation to be paid by the Partnership for such management shall not exceed eight percent (8%) on an annual basis of the gross income from the Project.

15. Project Changes, Etc. Any and all changes, deviations, alterations, or additions proposed to be made to the Project (including without limitation the Original Project and Parcel 13F) from and after the date of this Agreement shall be subject to prior review and approval by the Authority.

16. Non-Discrimination; Construction Employment; Project Leases and Employment.

(a) Construction Employment. The Partnership agrees in connection with construction of the Parcel 13F Improvements provided for in this Agreement or any other Project construction work undertaken after the date of this Agreement that it will not discriminate against any employee or applicant for employment because of race, color, sex, religion, or national origin. The Partnership will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, sex, religion or national origin. The Partnership further agrees that in regard to all construction work undertaken that it will use reasonable efforts to pursue and cause the general contractor to pursue efforts with a goal to employ workers in construction so that the worker hours on a craft-by-craft basis shall be performed as follows:

at least 50% by bona fide City of Boston residents; at least 25% by minorities; and at least 10% by women.

The Partnership shall incorporate in every general construction contract an enumeration of the foregoing worker hour goals and shall impose a responsibility upon the contractor to pursue such efforts and to incorporate such worker hour goals in all subcontracts and impose upon all subcontractors the obligation to pursue such efforts. In addition to the foregoing, the Partnership shall comply, as determined by the Authority, with the Mayor's Executive Order on Minority and Women Business Enterprise Development, dated December 17, 1987, and effective December 30, 1987, which sets forth the following standards, relative to contracting with Minority and Women Business Enterprises in all construction activity undertaken, including the procurement of goods and services:

at least 15% of the total construction contract amount shall be expended on Minority Business Enterprises; and at least 5% of the total construction contract shall be expended on Women Business Enterprises.

(b) Project Leasing and Employment. The Partnership shall not effect or execute any covenant, agreement, lease, or other instrument whereby the Project (including without limitation the Original Project and Parcel 13F) or any improvement therein is restricted on the basis of race, color, sex, religion or national origin in the lease or occupancy thereof or employment therein.

17. Notices; Communications. Any notices, reports, statements, requests, approvals, consents, waivers or other communications required or desired to be given or furnished pursuant to this Agreement shall be in writing with copies directed, as indicated below, and shall be hand-delivered or may be made by depositing the same in the United States mail, first class postage prepaid. If such notice is to the Authority, the address is:

Director
Boston Redevelopment Authority
One City Hall Square

Boston, MA 02201

with copy to: Chief General Counsel
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

If addressed to the Partnership, the address is:

Harold Brown, General Partner
MBH Associates
c/o Hamilton Realty Company
30 Brighton Avenue
Boston, MA 02135

with a copy to:

Bernard F. Shadrawy, Jr., Esq.
Shadrawy & Rabinovitz
15 Broad Street
Boston, MA 02109-3803

Either the Authority or the Partnership may change its respective address by giving written notice to the other in accordance with this Section.

18. Agreement Binding on Successors and Assigns. The respective provisions of this Agreement shall be binding upon, and shall inure to the benefit of the successors and assigns of the Partnership and the public body or bodies succeeding to the interests of the Authority. Notwithstanding the foregoing, the Fenway Health Center, after it has acquired fee title to the Clinic Component shall not be considered a successor and assign of the Partnership under this Agreement and accordingly shall not be found by the provisions of this Agreement.

19. Enforcement. The Authority may enforce compliance with any of the provisions of this Agreement (including without limitation the provisions of the Memorandum of Understanding As Amended) or any of its rules and regulations imposed on the Project in the Third Amendment by an action in a court of appropriate jurisdiction. The Partnership shall pay to the Authority all reasonable costs and expenses, including attorneys fees, which may be incurred by the Authority in proceedings brought to enforce compliance, to

the extent the Authority prevails.

20. Exhibits. The below indicated Exhibits attached and made a part of this Agreement:

Exhibit "A", Legal Description of Project Area.

Exhibit "B", Contract Documents Approval

Exhibit "C", Memorandum of Understanding as Amended

Exhibit "D", 6A Contract Amendment


21. Titles to Sections. The titles of the several Sections of, and the Exhibits attached to, this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpretation any of the provisions of this Agreement.

22. Execution of Agreement; Counterparts; Recordation. This Agreement shall be executed in such form as will enable recordation and may be executed in several counterparts, each of which shall be an original and all of which together shall constitute one and the same agreement. Further the parties agree that this Agreement shall be recorded in the Suffolk Country Registry of Deeds.

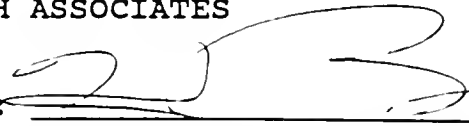
23. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such terms to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the extent permitted by law.

EXECUTED, as a sealed instrument as of the day first above written.



BOSTON REDEVELOPMENT AUTHORITY

By: 
Stephen Coyle, Director

MBH ASSOCIATES

By: 
Harold Brown, General Partner

APPROVED AS TO FORM:

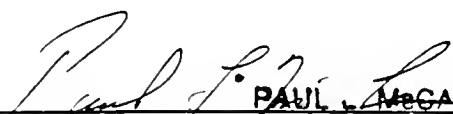

Robert F. McNeil
Chief General Counsel 
Boston Redevelopment Authority

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

Oct 26, 1989

Then personally appeared before me the above-named Stephen Coyle, who executed the foregoing Regulatory Agreement in his capacity as the Director of the Boston Redevelopment Authority (the "Authority") and acknowledges the same to be the free act and deed of the Authority.



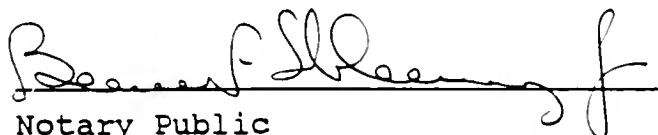
Notary Public PAUL L. MCGANN
My Commission Expires NOTARY PUBLIC
 MY COMMISSION EXPIRES
 AUGUST 3, 1990

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

Oct 13, 1989

Then personally appeared before me the above-named Harold Brown, who executed the foregoing Regulatory Agreement in his capacity as General Partner of MBH Associates (the "Partnership") and acknowledges the same to be the free act and deed of said Partnership.



Notary Public
My Commission Expires: 1/25/91

EXHIBIT "A"

LEGAL DESCRIPTION OF PROJECT AREA

- Parcel 13B (1078 and 1080 Boylston Street)
- Parcel 13C (1088-1094 Boylston Street)
- Parcel 13D (1100 and 1102 Boylston Street)
- Parcel 13E (1120-1130 Boylston Street)
- Parcel 13F (5,7,9 and 11 Haviland Street)

Parcel 13B (1078 and 1080 Boylston Street)

The land with the building thereon situated in Boston, Suffolk County, Massachusetts, known as and numbered 1078 Boylston Street and bounded and described as follows:

NORTHERLY on said Boylston Street twenty one feet; EASTERLY on land now or formerly of Niles by a line passing through the brick partition wall one hundred five feet; SOUTHERLY on the middle line of a passageway ten feet wide twenty one feet, and WESTERLY on land now or formerly of Walton by a line passing through the brick partition wall one hundred five feet; containing two thousand two hundred five square feet and being Lot 4 on a plan dated August 13, 1885 recorded Suffolk Deeds lib. 1693 end; together with right of way over and drainage under said passageway in common with other abutters.

Also a parcel of land with the building thereon situated in said Boston and numbered 1080 on said Boylston Street and bounded and described as follows:

NORTHERLY on said Boylston Street twenty one feet; EASTERLY on land now or formerly of Rand by a line passing through the middle of the brick partition wall one hundred five feet; SOUTHERLY on the middle line of a ten foot passageway twenty one feet, and WESTERLY on land now or formerly of Codman by a line through the brick partition wall one hundred five feet and being Lot 5 on the above-mentioned plan; together with the right of way over and drainage under said passageway in common with other abutters.

Conveyed with the benefit of and subject to restrictions, easements party wall or other agreements, of record, so far as the same are now in force and applicable to the above-described lots.

Being the same premises acquired by the Boston Redevelopment Authority by deed from City of Boston recorded at Suffolk Deeds Book 8942, Page 33.

Parcel 13C (1088-1094 Boylston Street)

A certain parcel of land with the buildings thereon in said Boston and now numbered 1088-1094, both inclusive on Boylston Street, Boston being lots numbered 7 and 8 on a plan dated August 13, 1995 and recorded with Suffolk Deeds at the end of Book 1693, and bounded and described as shown on said plan as follows:

NORTHERLY on said Boylston Street, forty-two (42) feet;

WESTERLY on Lot 9 on said plan or on land now or formerly of Digney, et al, trustees by a line passing through the middle of a brick partition wall, one hundred five (105) feet;

SOUTHERLY on land of owners unknown by the middle of a passageway, forth-two (42) feet;

EASTERLY on Lot 6 on said plan or land now or formerly of Codman by a line passing through the middle of a brick partition wall, one hundred five (105) feet;

Containing 4410 square feet of however said premises may be bounded and described and be any or all of said measurements more or less.

This conveyance is made with the benefit of and subject to restriction easements and agreements of record, insofar as the same are now in force and applicable.

Being the same premises acquired by the Boston Redevelopment Authority by an Order of Taking dated December 19, 1968 and recorded at Suffolk Deeds in Book 8251, Page 581.

Parcel 13D (1100 and 1102 Boylston Street)

The land, with all buildings now or hereafter thereon situated in said Boston, being shown as Lot 10 on a plan dated August 13, 1885, and recorded with Suffolk Deeds at the end of Book 1693, and bounded and described as follows:

Beginning at a point on the Southerly side of Boylston Street distant on hundred ninety (190) feet Westerly from the Westerly line of Massachusetts Avenue; thence

SOUTHERLY by line passing through a brick partition wall, parallel with and distant one hundred ninety (190) feet Westerly from said line of Massachusetts Avenue, one hundred five (105) feet to the middle line of a ten (10) foot passageway; thence running

WESTERLY along said middle line of said passageway, twenty-one (21) feet; thence turning and running

NORTHERLY by a line passing through a brick partition wall, parallel with and tow hundred eleven (211) feet distant Westerly from the Westerly line of Massachusetts Avenue, one hundred five (105) feet to Boylston Street; thence turning and running

EASTERLY on Boylston Street, twenty-one (21) feet to the point of beginning.

Containing 2,205 square feet of land.

Said premises are conveyed subject to and with the benefit of the agreements and restrictions of record as far as the same are now in force and applicable.

Being the same premises acquired by the Boston Redevelopment Authority by an Order of Taking dated November 7, 1968, recorded at Suffolk Registry of Deeds Book 8262, Page 1.

Parcel 13E (120-1130) Boylston Street)

Land with the buildings thereon now known as and numbered

1120-1130 Boylston Street and 2-8 Hemenway Street, Boston, comprising the lands shown as Lots 15 and 16 on a plan dated August 13, 1885, signed John S. Lamprey and N. Matthews recorded with Suffolk Deeds, Book 1693, Page 640, (See also plan of Lot 16 by Charles A. Pearson dated August 23, 1915, recorded with said Deeds, Book 3917, Page 189) and bounded:

NORTHERLY by Boylston Street 45.05 feet;

NORTHWESTERLY by Hemenway Street, 123.21 feet;

SOUTHERLY by the center line of a passageway now Public Alley No. 909, 109.52 feet;

EASTERLY by Lot 14 on said first mentioned plan by a line parallel with and 295 feet distant Westerly from the Westerly line of Massachusetts Avenue and running - in part through a brick partition wall, 105 feet;

Containing 8114.9 square feet of land, be any or all of said measurements or contents more or less.

Said premises are conveyed with the benefit of and subject to the restrictions, agreements and easements of record, to, so far the same, or any thereof, are now in force and applicable.

Being the same premises acquired by the Deeds of Harry N. Gorin dated December 27, 1974 and July 11, 1975 to the Boston Redevelopment Authority recorded at Suffolk Deeds in Book 8761, Page 600 and Book 8800, Page 132.

Parcel 13F (5, 7, 9, and 11 Haviland Street)

A certain parcel of land owned by the Boston Redevelopment Authority bounded and described as follows:

Beginning at a point in the northerly side line of Haviland Street, said point being one hundred and eleven and 02/100 (11.02) feet westerly of Mass. Ave;

Thence running S69-42-20W by said northerly side line of Haviland Street one hundred sixty-seven and 38/100 feet (167.38) to point at land of Charles G. and Daniel G. Alex;

Thence running N19-59-29W seventy-eight and 95/100 (78.95) feet by land now or formerly Alex to a point in the proposed southerly line of Public Alley 909;

Thence running N69-42-22E one hundred forty-two and 05/100 (142.05) feet by said proposed line of Public Alley 909 to a point of curvature;

Thence turning and running southeasterly by a curve with a radius of twenty-five and 00/100 (25.00) feet and a length of curve of thirty-nine and 31/100 (39.31) feet to a point tangency, said point being in the southwesterly line of Public Alley 909;

Thence running S20-12-10E fifty-three and 89/100 (53.89) by said southwesterly line of Public Alley 909 to the point of beginning.

The above described parcel contains 13,066 square feet more or less is shown on a plan entitled Parcel 13 disposition Plan, and shown as Parcel 13F on a plan prepared by Universal Engineering corporation, John A. Zampine, Jr., Registered Land Surveyor, dated September 13, 1979, which is recorded herewith and to which reference may be made for a more particular description.

Conveyed with the benefit of and subject to restrictions, easements party wall or other agreements, of record, so far as the same are now in force and applicable to the above-described lots.

Being a portion of the Premises acquired by the Boston Redevelopment Authority by an Order of Taking dated March 28, 1968, recorded at Suffolk Registry of Deeds in Book 8195, Page 523.

Together Parcels 13B, 13C, 13D, 13E and 13F were conveyed by the Boston Redevelopment Authority to MBH Associates, a Massachusetts limited partnership, by a Land Disposition Agreement and Deed, both dated April 11, 1980, and recorded at Suffolk Registry of Deeds in Book 9426, respectively Pages 162 and 184. Said properties are further subject to an Amendment to Land Disposition Agreement of even date and recorded herewith.

EXHIBIT "B"

CONTRACT DOCUMENTS APPROVAL

Contract documents approval letter, dated July 13, 1989, re: "Fenway Community Health Center" from Homer Russell, Director of Urban Design, Boston Redevelopment Authority, to Bernard Shadrawy, Jr., Esq. of Shadrawy & Rabinowitz.

BOSTON
REDEVELOPMENT
AUTHORITY

Raymond L. Flynn
Chair

Stephen Covey
President

One City Hall Square
Boston, MA 02201
(617) 722-4300

July 13, 1989

Bernard Shadrawy, Jr., Esq.
Shadrawy and Rabinovitz
15 Broad Street
Boston, MA 02109-3803

RE: Fenway Community Health Center

Dear Mr. Shadrawy:

We are pleased to grant contract documents approval to the Fenway Community Health Center. Approval is based on the architectural drawings submitted by Urban Access and listed on Attachment A.

Contract documents approval is granted with the understanding that the project will now enter the construction inspection stage of the BRA design review process. The requirements for this stage are set forth in the BRA Development Review Procedures Booklet.

Thank you for your attention.

Sincerely,



Homer Russell
Director of Urban Design

cc: Dale Orlando, Executive Director FCHC
Daniel L. Ocasio, AIA
Harry Collings, Associate Director, FCHC

ATTACHMENT A

Fenway Community Health Center
Contract Documents Approval
March 20, 1989

- L-1 Planting Plan
- L-2 Conc. Planter Plan
- L-3 Planting Schedule, Landscape Details
- L-4 ; Conc. Planter Walls and Fence Details

- A-1 Parking Level
- A-2 Street Level Plan
- A-3 Second Floor Plan and Building Section
- A-4 Roof Plan
- A-5 Haviland Street Courtyard and West Elevators
- A-6 North Elevation
- A-7 Wall Sections
- A-8
- A-9 Window Schedule and Details
- A-10 Door Schedule and Details
Storefront Details
- A-11 Elevator and Bathroom Plans and Details
- A-12 Stair Plans, Sections and Details

EXHIBIT "C"

MEMORANDUM OF UNDERSTANDING AS AMENDED

Original Memorandum of Understanding, dated January 31, 1989, by and between the Fenway Community Health Center, Inc. and MBH Associates.

First Amendment to Memorandum of Understanding, dated July 28, 1989, by and between the Fenway Health Center, Inc., and MBH Associates.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "Memorandum") is entered into this 31st day of January, 1989, between the Fenway Community Health Center, Inc., a Massachusetts Charitable Corporation organized pursuant to Chapter 180 of the Massachusetts General Laws, with its principal offices at 16 Haviland Street, Boston, Massachusetts ("Fenway"), and MBH Associates, a Massachusetts Limited Partnership, with its principal place of business c/o Hamilton Realty Company, 39 Brighton Avenue, Boston, Massachusetts 02134 ("MBH").

MBH currently owns fee title to certain real property located in Boston, Massachusetts consisting of four buildings from 1078 to 1330 Boylston Street and a parking lot at 11 Haviland Street (said properties sometime to be referred to herein as, collectively the "Properties"). The Properties are subject to that certain Report and Decision approved by the Boston Redevelopment Authority (the "Authority") on January 24, 1980, under Massachusetts General Laws Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended on March 20, 1984 (said Report and Decision, as amended, to be referred to herein after as the "121A Report"). MBH has applied to the Authority for approval by the Authority of a Second Amendment to the 121A Report (the "Second Amendment"). MBH has requested Fenway to indicate to the Authority Fenway's support for approval by the Authority of the Second Amendment.

In connection with the Second Amendment and in consideration for such support by Fenway, MBH will agree to construct on that portion of the Properties located at 11 Haviland Street (the "Haviland Street Property"), a two-story structure to contain approximately 12,000 square feet of ambulatory health clinic space above the grade level of Haviland Street, approximately 13,000 square feet of contained parking area containing approximately 38 parking spaces which will be below the grade level of Haviland Street, an access-controlled private courtyard area, and a semi-circular access driveway for pick-up and drop-off. Said structure, parking area, private courtyard and semi-circular drive, including all other improvements to be constructed or located thereon, shall be referred to herein as (the "Project").

MBH has caused Urban Access, Inc. (the "Architect") to prepare preliminary plans (the "Preliminary Plans") for the construction of the Project, a copy of which are attached hereto as Exhibit "A".

After completion of the Project, for nominal consideration, MBH will convey to Fenway fee title to the approximately 12,000 square feet of above grade commercial space (using air rights, condominiumization, or

such other means acceptable to the parties) as well as air rights sufficient to construct one additional story to contain approximately 6,000 feet of commercial space above the two stories. The transfer to the Fenway will also include perpetual and exclusive rights for access, use, enjoyment and maintenance of the private courtyard and semi-circular access drive (employing perpetual easements, condominiumization, air rights, or such other means acceptable to the parties). The completed building, the air rights to construct the additional story and the appurtenant rights shall hereinafter be referred to as the "Fenway Parcel" which term shall be included within the defined term "Project" as used herein. Fee title to the parking garage portion of the Haviland Street Property will be held by MBH.

The Project is to be constructed in a manner consistent with architectural and engineering standards necessary to support future construction of one additional floor.

The two-story 12,000 square foot commercial building (including the private park and semi-circular access drive) shall sometimes be referred to herein as the "Building". The below grade parking garage (including separate access drive) shall sometimes be referred to herein as the "Garage".

Among other things, the purpose of this Memorandum is to confirm the understanding of Fenway and MBH that the Project will be constructed, and fee title to the Building will be delivered to the Fenway, in accordance with the general conditions outlined below:

1. MBH agrees to cause the preparation of, and to cause the Project to be completed in accordance with, final plans and specifications in form and substance reasonably satisfactory to Fenway and the Authority (which, together with all amendments thereto approved by Fenway and MBH, are referred to as the "Plans"). MBH agrees to cause its architect, engineers and other design professionals to work with Fenway and its designees so that the Plans are reasonably suitable for the Fenway to add finish work not included with the Plans, but necessary to equip the Building as a facility for an ambulatory health care clinic with administrative offices, and such other uses as are incidental thereto ("Fenway's Development"). Fenway acknowledges and agrees that it shall retain its own design professionals (including, without limitation, architects) for the completion of Fenway's Development and MBH has not undertaken any obligation herein to pay for the cost of retaining said professionals.
2. The Building shall be conveyed together with (i) easements for support, access, maintenance, use, etc., (as are incidental to and reasonably necessary for an air rights transfer or other contemplated transfer acceptable to the parties) and (ii) facilities constructed in accordance with the Plans for sanitary sewer, storm water drainage, electrical service, gas, water,

telephone and fire alarm and other utilities, all of the foregoing to be made available directly from public ways or by means of permanent easements satisfactory to Fenway and insurable as appurtenant rights to the Building under a title insurance policy reasonably satisfactory to Fenway.

3. Fenway and its designees (including architectural, engineering, mechanical and similar professionals) shall have the right of access at all reasonable times to the Project for the purposes of inspecting the Project and the construction of the Building, and shall at all reasonable times have the right to inspect the Plans used at the Haviland Street Property for construction; provided that Fenway does not unreasonably interfere with the progress of the Project.
4. The Building will not be acceptable for delivery to the Fenway unless a national title insurance company is willing to issue to the Fenway upon delivery of the deed for the Building an owner's title insurance policy insuring fee title in the Building (including appurtenant easements for access, support, utilities, use, maintenance, etc.) in the Fenway free from all exceptions (other than those exceptions set forth on Exhibit "B"). As applicable, if the parties agree that a condominium form of ownership is acceptable said insurance must provide affirmative coverage that the condominium is validly created and existing under Massachusetts General Laws Chapter 183A (the "Condominium Laws"). In order to enable the Fenway to obtain such a title insurance policy, MBH will execute and deliver to the title insurance company and the Fenway all such necessary documentation including without limitation so-called "mechanic's lien" and "parties in possession" affidavits, and, not later than five (5) days prior to the closing date, an as built survey showing that all buildings are within lot and building lines and showing all easements, improvements, appurtenances, utilities and right-of-way, whether above or below ground, and any required surveyor's certificates.
5. MBH agrees that it shall not construct anything on the Haviland Street Property except in strict conformity with the Plans.
6. The Building will be delivered in broom clean condition free of all construction debris and personal property of MBH and all of MBH's agents, employees, contractors and subcontractors.
7. On or before the closing, MBH shall notify Fenway if it is aware or has any reason to believe that the Building as completed does not comply with all applicable zoning, building, environmental and other laws, regulations, ordinances, all covenants, conditions, restrictions and agreements affecting the Haviland Street Property or its use, or that any certificates, licenses, permits and approvals from any governmental or other authority having jurisdiction over the Haviland Street Property as are

- necessary to permit the contemplated use and occupancy of the Building have not been issued or are not in full force and effect, or shall not be in full force and effect on the date of the delivery to the Fenway of the deed to the Building other than those permits and approvals that cannot be delivered upon such date as Fenway's Development will not have been completed therein by that time. MBH agrees to make available to Fenway all such opinions, certifications, representations and warranties pertaining to the compliance of the Project with all applicable zoning, building, environmental and other laws, regulations and ordinances that are required by any and all lenders financing the construction of the Project, provided that MBH is not required to cause such opinions, certifications, representations and warranties to be addressed to and for the benefit of Fenway.
8. On or before the closing, MBH will deliver to Fenway an unqualified Certificate of Substantial Completion (AIA Document G704) from a licensed architect reasonably acceptable to Fenway in form reasonably satisfactory to Fenway to the effect that the Project has been constructed (i) in strict conformity with the Plans, (ii) in a good and workmanlike manner (iii) in conformity with good construction and engineering practices and (iv) in compliance with zoning laws and all other applicable laws, regulations and ordinances.
 9. On or before the closing, MBH will deliver to the Fenway (i) an assignment reasonably satisfactory to the Fenway of the Plans, building permit, and all other instruments, permits and approvals as may be required for the conveyance to use by the Fenway of the building for the Fenway's Development; and (ii) a duly executed bill of sale satisfactory to Fenway transferring all personal property shown on or reasonably inferable from the Plans, with a warranty by MBH that it is the owner of such property and that its full right and title thereto and authority to sell the same are free and clear of liens and encumbrances.
 10. MBH shall guarantee to Fenway that all construction pursuant to the Plans shall be free of all material defects and that all mechanical, plumbing, electrical and other utility equipment and systems shall be free of any material defects. MBH will transfer and assign to Fenway all warranties and guaranties that may be received by MBH from contractors, subcontractors, manufacturers and/or suppliers and shall obtain consents to said transfer and assignment from the Architect, the general contractor for the Project and such other third-party contractors, subcontractors, manufacturers and/or suppliers as Fenway may reasonably require. Without limitation, MBH will promptly discharge any mechanic's and materialmen's liens against the Haviland Street Property.
 11. In the event the Project has not been fully completed in accordance with the Plans, Fenway will have the right, if Fenway elects, to prepare a so-called "punch list" acceptable to Fenway

and MBH containing all items to be completed with each item assigned a value equal to the cost of completing such item. MBH will then be responsible to pay the cost to complete all or any portion of the Project as set forth in the "punch list" within a reasonable period of time not to exceed sixty (60) days after the completion of said "punch list" for non-structural items and one hundred eighty (180) days for structural items.

12. MBH will warrant and represent to the Fenway that no notice has been given to or received by MBH or is threatened to be given, with respect to the possible presence of any such "hazardous materials" or "oil" as those terms are defined in Chapter 21E of the Massachusetts General Laws on the Haviland Street Property. MBH has delivered to Fenway that certain Phase I Environmental Site Assessment for 5-11 Haviland Street, Boston, Massachusetts, dated July 20, 1988, prepared by Certified Engineering & Testing Co., Inc. (the "21E Report"). On or before the closing, MBH will deliver to Fenway an update to the 21E Report dated not more than ninety (90) days prior to the date of the closing and prepared by an environmental engineering firm reasonably acceptable to Fenway confirming that no "hazardous materials" or "oil" as those terms are defined in Chapter 21E of the Massachusetts General Laws are present on the Haviland Street Property, or any portion thereof and otherwise in form reasonably acceptable to Fenway. In the event that prior to the closing any such hazardous materials or oil are discovered on the Haviland Street Property, and MBH elects not to remove the same, the obligation of the Fenway to take title to the Office Unit shall cease, and MBH shall not be in compliance with the terms of the Second Amendment.
13. At the closing, Fenway and Hamilton Realty Management Company, Inc. ("HRMC") which is the management affiliate of MBH, agree to enter into an agreement for HRMC to be retained by Fenway as manager of the Building for as long as MBH owns the controlling interest in the Garage. Compensation to HRMC as manager will be payable monthly in the amount of \$1,000.00. In the event Fenway constructs a third floor during the term of the management agreement, the managerial service is to be performed or be expanded to include the third floor and the monthly management fee shall be increased to \$1,250.00. Commencing with the sixty-first (61st) month of the term of the management agreement, the management fee will be subject to an annual cost of living increase in the same proportion as the Consumer Price Index for all Urban Consumers (CPI-U): U.S. City Average, All Items (unadjusted) (1982-84=100), published monthly by the Bureau of Labor Statistics, U.S. Department of Labor ("Price Index") has increased, if at all, above the Price Index as of the commencement of HRMC's term as manager. MBH, Fenway and HRMC shall agree upon a final budget which shall constitute the standard to which HRMC shall adhere. No expenses may be incurred or commitments made by HRMC in connection with the

Building in excess of One Hundred Ten Percent (110%) of the amount allocated to the various classifications of expense in the approved budget, without the prior written consent of Fenway in each instance. Fenway shall indemnify all HRMC for any expenses, costs or liability sustained or incurred by HRMC by reason of or arising out of HRMC's performance of the duties and obligations required by it under said management agreement, except if caused by HRMC's negligence or misconduct. The services to be performed by HRMC as manager of the Building shall include the following:


- a. To provide for all necessary and appropriate maintenance, security and repair of the common areas of the Building, including, without limitation, the exterior and structure of the Building, the semi-circular access drive, the private courtyard, the elevator, and other common areas. The building equipment, furniture and fixtures, subject to limitations of the then current budget approved by the Fenway and any other limitations imposed by Fenway in addition to those contained herein. On any items of repair, replacement or security, the expense incurred shall not exceed \$500.00 unless specifically authorized in writing by Fenway.
- b. At the election of Fenway, to procure and maintain at Fenway's expense public liability insurance with such companies and in such amounts as shall be acceptable to Fenway, insuring against liability for bodily injury and injury to property sustained by any person, firm or corporation, not an employee of Fenway or HRMC. Fenway and HRMC shall each be named as an insured under such policy. HRMC shall cause to be placed and kept in force insurance as required by law and needed adequately to protect Fenway, including, but not limited to, Fire and Extended Coverage Insurance, and Burglary and Theft Insurance, with such companies and in such amounts as shall be acceptable to Fenway.
- c. To engage, employ, appoint and discharge personnel and supervise and direct the same with relation to the operation of the Building and to the common areas and facilities.
- d. To provide for all necessary security for the Building.
IF REQUESTED IN WRITING
- e. Within thirty (30) days of the date hereof, and at least thirty (30) days before the beginning of each calendar year, to prepare and itemize statement of estimated disbursements for the new calendar year.
- f. To do all things reasonably requested by Fenway and customarily done by management companies for the proper management of building similar to the Building.

Fenway and HRMC shall enter into a formal management agreement which will more completely evidence the managerial obligation of HRMC.

14. MBH does hereby license the use by Fenway and those claiming by through and under Fenway, upon thirty (30) days written notice to MBH, of the Haviland Street Property for any and all purposes and activities related to the construction of a third floor to the Building prior to completion of the Building by MBH. Upon thirty (30) days prior written notice from Fenway, MBH agrees to cooperate, and to cause its architects, engineers, contractors, employees, agents, invitees and other parties involved with the construction of the Project to cooperate with Fenway should Fenway exercise its rights hereunder. Fenway shall indemnify MBH from any expenses, costs or liability for any damage or injury which arises because of Fenway's exercise of its rights pursuant to this license.
15. MBH agrees that it shall not construct any additions to the Building including without limitation additional floors above the third floor, without the prior written consent of Fenway.
16. MBH agrees to complete construction of the Project and deliver fee title to the Building to Fenway subject to and in accordance with the terms hereof not later than twenty-four (24) months after approval of the Second Amendment by the Authority.
17. In the event that MBH shall not have received all approvals (the "Approvals") necessary to implement the Second Amendment to the M.G.L. c. 121A Agreement and 6A Agreement and Regulatory Agreement thereunder (the "Agreements") and furthermore that any and all relevant, required, customary and necessary documents in relation to said Agreements and Approvals have not been fully executed by all required and necessary parties thereto within a reasonable period of time following execution of this Agreement (the "Execution of Documents"), MBH and/or Fenway shall each have the right to terminate this Agreement by giving to the other written notice to the other prior to said Approvals and said Execution of Documents by any and all necessary parties to said Amendment.
18. The terms, conditions and obligations of this Agreement, which are operative after conveyance of the Building to Fenway shall survive said conveyance and shall not be deemed to have merged into the deed or other instruments of conveyance.
19. MBH and Fenway understand and are aware that the Authority intends to incorporate by reference into the Second Amendment all the terms and conditions of this Agreement and agree that the Authority by doing so shall have the right to do such acts as it deems reasonably necessary to insure compliance by the parties hereto with the terms hereof.

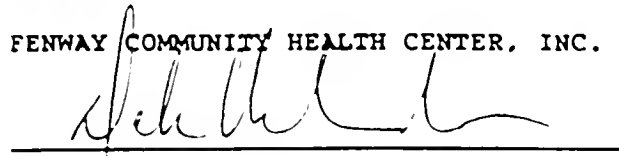
20. MBH and the Fenway agree to execute and deliver any and all documentation necessary to effectuate the purpose of this Memorandum.

MBH ASSOCIATES,



Harold Brown
General Partner

FENWAY COMMUNITY HEALTH CENTER, INC.



By: Dale Orlando,
Its: Executive Director
Hereunto duly authorized

ACCEPTED AND AGREES:

BOSTON REDEVELOPMENT AUTHORITY

Exhibit "A"

Preliminary Plans

Exhibit "B"

Title Exceptions

FENWAYDEV FIRST AMEND MEMO OF UNDERSTAND
(07/27/89) (SECOND DRAFT)

FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING

This First Amendment to Memorandum of Understanding (the "First Amendment") is entered into this 28 day of July, 1989, between the Fenway Community Health Center, Inc., a Massachusetts Charitable Corporation organized pursuant to Chapter 180 of the Massachusetts General Laws, with its principal offices at 16 Haviland Street, Boston, Massachusetts ("Fenway"), and MBH Associates, a Massachusetts Limited Partnership, with its principal place of business c/o Hamilton Realty Company, 39 Brighton Avenue, Boston, Massachusetts 02134.

W I T N E S S E T H:

Reference is made to the following facts:

A. Fenway and MBH have entered into a Memorandum of Understanding dated January 31, 1989 (the "Memorandum") with reference to the construction of the Project (as defined in the Memorandum) by MBH on the Haviland Street Property (as defined in the Memorandum).

B. The Properties (as defined in the Memorandum) are subject to the 121A Report (as defined in the Memorandum), as amended. MBH has applied to the Authority for approval by the Authority of a Third Amendment to the 121A Report (the "Third Amendment"). MBH has requested Fenway to indicate to the Boston Redevelopment Authority Fenway's support for approval by the Authority of the Third Amendment.

C. In connection with the Third Amendment and in consideration for such support by Fenway, MBH will agree to construct on the Haviland Street Property a three-story structure to contain approximately 18,000 square feet of ambulatory health clinic space above the grade level of Haviland Street.

D. MBH and Fenway have caused the Architect (as defined in the Memorandum) to prepare the final plans and specifications (the "Final Plans") for the construction of the Project. A list of said Final Plans is attached hereto as Exhibit "A" and incorporated herein by the reference.

E. After completion of the Project, for nominal consideration, MBH will convey to Fenway fee title to the approximately 18,000 square feet above grade commercial space, otherwise in accordance with the terms of the Memorandum.

F. Fenway and MBH desire to amend the terms of the Memorandum to reflect the foregoing and such other matters set forth herein.

G. Capitalized terms used herein and not otherwise defined shall have the meanings set forth for such terms in the Memorandum.

NOW, THEREFORE, in consideration of the foregoing and in further consideration of the mutual covenants and promises hereinafter contained, MBH and Fenway agree as follows:

1. References to the Project and the Building shall, for all purposes, constitute a three-story structure to contain approximately 18,000 square feet of ambulatory health clinic space above the grade level of Haviland Street, approximately 13,000 square feet of contained parking area containing approximately 38 parking spaces which will be below the grade level of Haviland Street, and access-controlled private courtyard area, and a semi-circular access driveway for pick-up and drop-off, all as more specifically set forth in the Final Plans. All references in the Memorandum to the conveyance by MBH to Fenway of air rights sufficient to construct one additional story above the two stories originally contemplated, are no longer applicable to the Project and are hereinafter deemed removed from the Project.

2. All references in the Memorandum to the Plans shall, for the purposes hereof, be considered references to the Final Plans.

3. In the sixth line of Paragraph 13 of the Memorandum the dollar amount "\$1,000.00" is hereby deleted and replaced with "\$1,250.00". The third sentence of said Paragraph 13 is hereby deleted.

4. Paragraph 14 of the Memorandum is hereby deleted.

5. The second line of Paragraph 19 of the Memorandum is amended to add the words "and Third Amendment" after the word "Amendment".

6. Except as expressly modified hereby, the terms of the Memorandum remain in full force and effect.

IN WITNESS WHEREOF, Fenway and MBH have caused this First Amendment to be executed under seal as of the date first above written.

WITNESSES

W. P. Kelly

FENWAY COMMUNITY HEALTH CENTER, INC.

By:

Dale Orlando
Dale Orlando
Its Executive Director
Hereunto duly authorized

MBH ASSOCIATES

Sally A. Stan

Harold Brown
Harold Brown
Its sole general partner

Exhibit A"

Final Plans

(See Attachment)

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EXHIBIT "D"

6A CONTRACT AMENDMENT

6A Contract Amendment, dated as of October 26, 1989, by and between MBH Associates and the City of Boston, by and through its Mayor and the Commissioner of Assessing.

AMENDMENT TO 6A CONTRACT BETWEEN
MBH ASSOCIATES
AND THE CITY OF BOSTON

PURSUANT TO SECTION 6A OF
CHAPTER 121A OF THE GENERAL LAWS

AMENDMENT (the "Amendment") made this 26 day of October, 1989, by and between MBH ASSOCIATES, a Massachusetts limited partnership (the "Owner"), and the CITY OF BOSTON, a municipal corporation of the Commonwealth of Massachusetts (the "City"), acting under Massachusetts General Laws, Chapter 121A, Section 6A, as amended, and every other power and authority hereto enabling. Collectively, the Owner and the City are hereinafter referred to as the "Parties".

W I T N E S S E T H T H A T :

WHEREAS, there was filed on behalf of B & M Associates with the Boston Redevelopment Authority of the Commonwealth of Massachusetts (the "Authority"), an application dated November 8, 1979 (the "Application") under the provisions of Massachusetts General Laws, Chapter 121A, as amended ("Chapter 121A"), and Chapter 652 of the Acts of 1960, as amended, for approval of a project situated in the City of Boston, said project being more particularly described in Paragraph 4 of said Application and in the metes and bounds description of said Application (the "Project");

WHEREAS, the Application sought the approval of the Authority of a project involving 44 units of housing and 21,000 square feet of commercial space (the "Project");

WHEREAS, the Authority adopted a certain Report and Decision on the Project (the "Report and Decision") by a vote on January 24, 1980;

WHEREAS, the Mayor of the City of Boston (the "Mayor") approved the aforementioned vote of the Authority on February 12, 1980;

WHEREAS, the vote of the Authority along with the approval of the Mayor were filed with the office of the City Clerk of the City of Boston (the "City Clerk") on February 19, 1980;

WHEREAS, the Report and Decision was amended by a First Amendment thereto, adopted by a vote of the Authority at a meeting on March 20, 1980, which vote was approved by the Mayor on March 27, 1980 and such vote as approved was filed with the City Clerk on March 27, 1980, which First Amendment changed the name of the partnership which owned the Project subject to Chapter 121A from B & M Associates to MBH Associates;

WHEREAS, the Owner and the City of Boston (the "City") entered into a certain contract, dated as of April 24, 1980, pursuant to Chapter 121A, Section 6A, which contract is incorporated herein by reference (the "6A Contract");

WHEREAS, the Report and Decision was amended by a Second Amendment thereto adopted by a vote of the Authority at a meeting on February 16, 1989, which vote was approved by the Mayor on March 20, 1989, and such vote as approved was filed with the City Clerk on March 24, 1989, which Second Amendment changed in part the description of the Project; and

WHEREAS, the Report and Decision was amended by a Third Amendment thereto, adopted by a vote of the Authority at a meeting on June 29, 1989, which vote was approved by the Mayor on July 24, 1989, and such vote as approved was filed with the City Clerk on July 25, 1989, which Third Amendment in part further changed the description of the Project and approved and authorized the execution of an amendment to the 6A Contract;

NOW, THEREFORE, the Parties agree as follows:

The 6A Contract is amended by:

1. Inserting the following sub-paragraph as new sub-paragraph 1(d)(iv):

"Commencing with calendar year 1988, and for each year thereafter, the Owner shall pay no more than eight and 60/100 percent (8.6%) of the total gross income from residential tenants, commercial tenants and parking; provided, however, that for calendar year 1988 and succeeding years thereafter, the Owner shall pay no less than the amount paid pursuant to Chapter 121A, Section 10 and provided further that in any year that the difference between the amount that would be due if calculated pursuant to sub-paragraph 1(d)(iii) of the 6A Contract and the amount due pursuant to this sub-paragraph 1(d)(iv) of the Amendment exceeds seventy thousand dollars (\$70,000) then the Owner shall pay to the City as an additional payment hereunder such difference in excess of said seventy thousand dollars (\$70,000)."

2. Inserting the following sub-paragraph as new sub-paragraph 1(d)(v):

"The Owner shall receive a one time credit equal to one-half of the accrued interest on any unpaid amounts due as of April 1, 1989 but in no event more than twenty nine thousand two hundred seventy five dollars (\$29,275). The credit shall be available for use by the Owner only at the time the Owner pays to the City such unpaid amounts."

3. By designating the current sub-paragraph 1(d)(iv) as sub-paragraph 1(d)(vi).

4. By inserting the following paragraph as new paragraph 3:

"Pursuant to the authority conferred by General Laws, Chapter 121A, Section 10, the Board of Assessors of the City hereby determine the maximum fair cash value of the Project, commencing with calendar year 1989 and succeeding years, shall not exceed an amount which when used in calculating the urban redevelopment excise tax in accordance with the applicable statutory formulae produces an excise equal to or less than the amount due under paragraph 1(d)(iv) of this Amendment."

The Board of Assessors of the City agree that such fair cash value shall be certified annually as required, to the Owner and the Department of Revenue, Commonwealth of Massachusetts."

5. By inserting the following paragraph as new paragraph 4:

"In the event the Owner, by and through its contractors, after commencement does not diligently proceed with the construction of the Building and complete same in accordance with the terms of the Regulatory Agreement or the Amended and Restated Regulatory Agreement, of even date, by and between the Authority and the Owner, required by provisions of the Third Amendment to the Report and Decision on the Project, the Authority's Director may by written notice to the Commissioner of Assessing and/or the Board of Assessors of the City determine and direct that the right of the Owner to make payments under the formula set forth in sub-paragraph 1(d)(iv), as added by Section 1 of this Amendment and the obligation of the Board of Assessors to make the fair cash value determinations in accordance with Section 4 of this Amendment, shall both be suspended and or revoked, for such period(s) of time as he shall determine, including the full remainder of the period of the tax exemption for the Project, and during such period(s) the Owner shall be obligated to make payments under sub-paragraph 1(d)(iii) of the 6A Contract."

6. By renumbering the remaining paragraphs to confirm the sequence to the changes made herein.

EXECUTED as a sealed instrument the day and year first above written.

MBH ASSOCIATES

By: 

Harold Brown, General Partner

CITY OF BOSTON

By: 

Raymond L. Flynn, Mayor

ASSENTED TO: 

By: 

Commissioner of Assessing

APPROVED AS TO FORM:


Corporation Counsel
City of Boston

6A Contract: Back Bay Restorations Chapter 121A Project
6A Contract Amendment: MBH Associates Chapter 121A Project

Contract Required by Section 6A
Of Chapter 121A of the General Laws

This Agreement (the "Contract") is made this 10th day of March, 1986, by and between BACK BAY RESTORATIONS COMPANY, a limited partnership organized under and subject to the provisions of Chapter 109 and Chapter 121A of the Massachusetts General Laws (the "General Laws"), (the "Partnership") and CITY OF BOSTON, a municipal corporation of the Commonwealth of Massachusetts (the "City"), acting under Section 6A of Chapter 121A of the General Laws and every other power and authority hereto enabling.

WITNESSETH THAT:

WHEREAS, an application, dated February 27, 1976, and a first amendment thereto, dated May 3, 1976, (collectively the "Original Application") were filed with the Boston Redevelopment Authority ("Authority") for approval under Chapter 121A of the General Laws ("Chapter 121A") and Chapter 652 of the Acts of 1960 ("Chapter 652"), both as then amended and applicable, of a project known as Back Bay Restorations (the "Project"), as more particularly described in the Original Application, and for the consent to the formation of an Urban Redevelopment Limited Partnership, known as Back Bay Restorations Company, to undertake such Project in Boston, Massachusetts, which Original Application was approved by vote of the Authority adopting a Report and Decision thereon (the "Report and Decision") on May 6, 1976, such vote was affirmed by the Mayor of the City of Boston (the "Mayor") on May 24, 1976, and the vote as affirmed was filed with the Clerk of the City of Boston (the "City Clerk") on May 27, 1976 (the "Initial Approval Date");

WHEREAS, an application for a second amendment to the Original Application, dated February 6, 1978, was filed with the Authority, which application along with a first amendment to the Report and Decision (the "First Amendment to the Report and Decision") were approved by votes of the Authority on February 16, 1978, such votes of the Authority were affirmed by the Mayor on November 28, 1978, and the votes as affirmed were filed with the City Clerk on December 1, 1978;

WHEREAS, a certain 6A Contract as required by Section 6A of Chapter 121A was executed by the Partnership and the City on February 21, 1978;

WHEREAS, an application, dated October 17, 1985, was filed with the Authority for approval of a second amendment to the Report and Decision, which application was approved by vote of the Authority, adopting a Second Amendment to the Report and Decision (the "Second Amendment to the Report and Decision") on December 5, 1985, (said Second Amendment to the Report and Decision is incorporated herein by reference) such vote was affirmed by the Mayor on December 19, 1985, and the vote as affirmed was filed with the City Clerk on March 10, 1986;

WHEREAS, in connection with a certain action filed by the Authority against the Partnership and others in the Land Court, Suffolk County, (the, "Land Court"), Boston Redevelopment Authority v. Back Bay Restorations Company, et al. (Civil Action No. 116134), an Order for Judgment was entered by the Land Court on December 5, 1985 and an Amendment to Judgment was entered on January 28, 1986 (collectively called the "Judgment as amended"), (said Judgment as amended is incorporated herein by reference);

WHEREAS, a certain Regulatory Agreement (the "Regulatory Agreement") as required by Section B(5) of the Second Amendment to the Report and Decision, Paragraph 4(a) of the Judgment as amended, and Section 18C of Chapter 121A was executed by the Partnership and the Authority of even date herewith (said Regulatory Agreement is incorporated herein by reference); and

WHEREAS, pursuant to Section B(5) of the Second Amendment to the Report and Decision, Paragraph 4(a) of the Judgment as amended and the provisions of Section 6A of Chapter 121A, as now in effect, the Partnership is required to enter into this Contract with the City.

NOW THEREFORE:

1. The parties agree that this Contract shall supercede and replace in all respects that certain 6A Contract between the Partnership and the City, dated as of February 21, 1978, as of the date of the filing of the Second Amendment to the Report and Decision with the City Clerk.

2. The parties agree that in accordance with the Second Amendment to the Report and Decision the Project as amended under Chapter 121A shall include only those parcels of land with the buildings thereon numbered 199 and 238 Marlborough Street and 148 and 298 Commonwealth Avenue, Boston, Massachusetts, as more particularly described in Exhibit A attached to the Regulatory Agreement (the "Project Properties"). Said Project Properties contain thirty-eight (38) dwelling units, consisting of eight (8) studio units, eleven (11) one-bedroom units, seven (7) two-bedroom units and twelve (12) three-bedroom units. The number of units as described in the preceeding sentence shall be subject to periodic confirmation by an inspection of such Project Properties by the Commissioner of Assessing or his designated representatives.

3. The Partnership hereby agrees with the City as follows:

(a) To carry out the Project as amended by operating, maintaining and managing the Project Properties as rental apartments in accordance with the provisions of Chapter 121A and Chapter 652, both as now in effect.

(b) To perform all of the obligations as owner of the Project as amended under the Regulatory Agreement with the Authority.

(c) To pay to the Commonwealth of Massachusetts with respect to each calendar year or any portion thereof that this Contract is in effect, the Urban Redevelopment Excise Tax required under Section 10 of Chapter 121A.

(d) To pay to the City with respect to each of the calendar years or any portion thereof that this Contract is in effect, as hereinafter defined in Paragraph 15, the respective amount, if any, by which the amounts hereinafter set forth exceed the excise payable for each calendar year pursuant to Section 10 of Chapter 121A:

(i) For the calendar years 1986, 1987 and 1988, twenty-three percent (23%) of the gross residential income, as hereinafter defined, from the Project Properties.

(ii) Commencing in calendar year 1989 through calendar year 1990 and for that portion of calendar year 1991 ending on May 27, 1991, twenty-five percent (25%) of the gross residential income from the Project Properties.

The phrase "gross residential income" shall mean the greater of, the gross income collected by the Partnership from all sources, or the potential gross income from the Project Properties. Further, the phrase "potential gross income" in the preceding sentence shall mean the potential gross income of the Project Properties based on one hundred percent (100%) occupancy at market rate residential rent levels for similar properties, as determined by the Commissioner of Assessing or his designated representative.

Any payments which may become due to the City on account of the provisions of Subparagraph 3(d)(i) and (ii) above shall be paid to the City on or before the first day of April of the year next following the year with respect to which such payment is due. Any overpayment applicable to one calendar year shall, at the election of the City, be either refunded or applied to reduce the payments due in the succeeding calendar years except that with respect to the last calendar year or portion thereof in which the Project as amended, shall be subject to this Contract, any overpayment by the Partnership shall be refunded by the City. For purposes of this Contract, an overpayment by Partnership hereunder shall include any amounts paid by it to the City as real estate taxes pursuant to Chapter 59 of the General Laws, with respect to the Project Properties for any period during which this Contract is in effect. If the Partnership shall in any calendar year pay to the Commonwealth of Massachusetts or any political subdivisions thereof, any excise or tax measured by its income from or investment in the Project as amended,

additional to the excise provided for by Section 10 of Chapter 121A as now in effect, the applicable amount stated in or computed in accordance with Subparagraphs 3(d)(i) and (ii) of this Contract shall be reduced by the amount of such additional excise or tax.

4. For any calendar year or any portion thereof, from 1986 to May 27, 1991, the Partnership agrees to make payments in addition to those referred to in Subparagraph 3(d)(i) and (ii) above to the City in the amounts, as determined by and upon receipt of notice from the Authority, pursuant to the provisions of Paragraph 6 of the Regulatory Agreement. The obligations to make the foregoing additional payments and those payments referred to in Subparagraph 3(d)(i) and (ii) hereof shall survive the termination of this Contract.

5. (a) In connection with the five (5) buildings, constituting 280 Commonwealth Condominium, numbered 274, 276, 278, 280 and 282 Commonwealth Avenue, Boston, Massachusetts (the "280 Commonwealth Condominium"), and the forty-three (43) condominium units contained therein, which were released from the Project as amended in accordance with Section B(1)(a) of the Second Amendment to the Report and Decision, the Partnership agrees hereby to pay to the City, a one time payment equal to the sum of the following:

(i) As to the twenty-one (21) condominium units which were sold prior to the effective date hereof the amount of twenty-five thousand dollars (\$25,000.00); and

(ii) As to the twenty-two (22) condominium units which remain unsold as of the effective date hereof the amount of forty thousand dollars (\$40,000.00);

The foregoing one time payment shall be made by the Partnership on the earlier of, eighteen (18) months from the date of the initial disbursement of funds in accordance with the authorized refinancing referred to in Section B(3) of the Second Amendment to the Report and Decision (the "authorized refinancing") or the date the last of said twenty-two (22) unsold condominium units is sold. Interest shall accrue on this one time payment from the date of the initial disbursement of funds in accordance with the authorized refinancing. Such interest shall accrue at the same rate charged by the Collector-Treasurer of the City for the late payment of real estate taxes and shall be payable at the same time as the one time payment is due and payable.

(b) The City and the Partnership acknowledge and agree that real estate taxes under Chapter 59 of the General Laws may be assessed, at the option of the City, on the forty-three (43) condominium units contained within the 280 Commonwealth Condominium beginning in fiscal year 1986. The Partnership agrees with the City further that in the event such real estate taxes as described in the preceding sentence are declared void by a final judgment

of a court of appropriate jurisdiction, the Partnership shall pay to the City as an additional payment in lieu of taxes an amount equal to the sum of those payments that would have been due under Chapter 59 of the General Laws, had such forty-three (43) condominium units been subject to Chapter 59. The Partnership shall pay the amount described in the preceding sentence for each year in which the forty-three (43) condominium units are not validly taxed pursuant to Chapter 59 of the General Laws.

The City agrees that the Partnership shall be entitled to a credit against the one time payment due under Subparagraph 5(a), (i) and (ii) equal to fifty percent (50%) of all real estate taxes assessed and paid pursuant to Chapter 59 of the General Laws, as reduced by any abatement, for fiscal year 1986 on the twenty-two (22) unsold condominium units at 280 Commonwealth Condominium. Notwithstanding the foregoing sentence, in no event shall such credit exceed twenty thousand dollars (\$20,000.00). The credit shall first be applied to reduce the one time payment due under this Subparagraph 5(a), (i) and (ii). If there is any excess credit, the same shall be applied to reduce the payments referred to in Subparagraph 3(d)(i) and (ii) for calendar years 1986 and 1987.

In the event that this Subparagraph 5(b) is declared void, said Subparagraph shall be severable from the remainder of the Contract and the remainder of the Contract shall remain in full force and effect.

6. The Partnership shall file with the Commissioner of Assessing, Collector-Treasurer's Office and the Authority within fifteen (15) days of the end of each calendar year during which this Contract is in effect a statement of the income and expenses of the Project as amended and the amounts invested in the same in accordance with Paragraph 6 of the Regulatory Agreement.

7. The Partnership shall file with the Commissioner of Assessing within fifteen (15) days of the end of each calendar year during which this Contract is in effect a rent roll identifying each tenant or occupant in the Project Properties by name, address, dwelling unit number, unit size and description, rent due, rent collected, whether the unit is being rented pursuant to a lease or a tenancy at will agreement, and copies of all leases and/or tenancy at will agreements. Along with said rent roll and related documents, the Partnership shall submit to the Commissioner of Assessing an affidavit signed under the pains and penalties of perjury by an authorized general partner thereof certifying that the information submitted is true and correct. The Partnership shall allow representatives of the Commissioner of Assessing to inspect any and all portions of the Project Properties at any reasonable time on five (5) days notice in writing.

In the event the Partnership fails to provide the information required under this Paragraph 7 and Paragraph 8 below within the prescribed time periods, the Partnership shall for

each calendar month or part thereof in which the requested information is not so filed pay a late charge equal to one percent (1%) of the sum of the payments due under Section 10 of Chapter 121A and the payments under Subparagraph 3(d)(i) and (ii) hereof. Such late charge shall be paid by the Partnership in full at the time of the next payment due hereunder.

8. The Partnership shall file with the Authority, the Collector-Treasurer's Office and the Commissioner of Assessing within ninety (90) days of the end of each calendar year or portion thereof during which this Contract is in effect a completed and signed Declaration of Liability Return, a form made available by the Collector-Treasurer, an audited report, prepared by a Certified Public Accountant, consisting of a statement of all rental and other income, operating cost, construction and replacement cost, a statement of profit and loss for the Partnership, a balance sheet, and a statement of disposition of funds for the preceding calendar year, and a certified copy of the partnership's Urban Redevelopment Excise Tax Return as submitted to the Department of Revenue, Commonwealth of Massachusetts.

9. If the Partnership fails to submit the audited report required by paragraph 8 or if the City or the Authority have reasonable cause to be dissatisfied with such audited report, the City and/or the Authority may make an annual audit of all financial records pertaining to the operations of the Project Properties and may engage the services of a private accounting firm to undertake such an audit at the reasonable expense of the Partnership.

If the Partnership is found to have deliberately withheld information on or misrepresented collection from the Project Properties, relative to its payments under Subparagraph 3(d)(i) and (ii) hereof, the Partnership shall pay all arrearages plus interest on that amount owed the City (with interest rate equal to the rate charged for delinquent real estate tax accounts by the Collector-Treasurer's Office), and in addition shall pay and/or reimburse the City for all expenses incurred as a result of or in the investigation of such withholding or misrepresentation.

10. The parties acknowledge that as long as this Contract is in effect the Assessing Department of the City shall determine in its sole discretion the fair cash value of the Project Properties for each calendar year or any portion thereof pursuant to Section 10 of Chapter 121A.

11. The parties further agree that without written approval of both parties any amendment, subsequent to the execution of this Contract, of Chapter 121A, Chapter 652 and the rules, regulations and standards prescribed by the Authority which might otherwise be applicable to the Project as amended shall not affect the same.

12. If the Partnership or any mortgagee of the Project Properties proposes, acting either under the provisions of the third and last paragraph of Section 11 or under Section 16A of

Chapter 121A, to transfer the Project as amended to a different entity, this Contract may, upon approval of such transfer, be assignable to a transferee or may be terminated, all in accordance with the provisions of said sections; provided, however, that in the event of such transfer the transferee shall agree to such modifications in Subparagraphs 3(d)(i) and (ii) hereof as may be required by the City. In the event of such an approved transfer and termination, the Partnership shall be released from all obligations under this Contract and under Chapter 121A and shall be divested of all powers, rights and privileges conferred by this Contract and Chapter 121A.

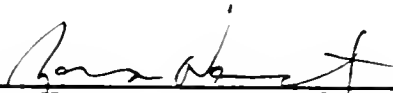
13. Simultaneously with the execution of this Contract by the Partnership, an authorized general partner thereof shall sign a Stipulation of Dismissal pursuant to Rule 41(a) of the Massachusetts Rules and Procedure, in form satisfactory to the City, wherein the Partnership agrees to dismiss with prejudice all claims alleged in a certain action, Back Bay Restorations Company v. George Russell et al, Land Court Department of the Trial Court, (Civil Action No. 117846), and waives all rights of appeal in connection with said action.

14. The provisions of this Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, executors, administrators, successors in office or interest, and assigns, except in the event a successor in interest elects under option (3)(b) of the provisions of Section 16A of Chapter 121A, as now in effect, with the prior approvals required thereby.

15. This Contract shall commence as of the date of the filing of the Second Amendment to the Report and Decision with the City Clerk and shall terminate on May 27, 1991, the date which is fifteen (15) years from the Initial Approval Date; provided however, if the Authority in accordance with Section B(5) of the Second Amendment to the Report and Decision adopts a vote to rescind such amendment or votes to approve a Third Amendment to the Report and Decision in effect restoring the terms, scope and duration of the Project as described in the First Amendment to the Report and Decision, this Contract shall remain in full force and effect with the following exceptions, (a) the Project shall be as described in the Report and Decision as amended by the First Amendment to the Report and Decision, (b) the termination date of this Contract shall be forty (40) years from and after the Initial Approval Date of the Project under Chapter 121A, and (c) for calendar year 1991 twenty-five percent (25%) of gross residential income (as that term is defined in Subparagraph 3(d)) shall be payable to the City and for every subsequent calendar year or portion thereof until the expiration of such forty (40) year term the payment shall be thirty percent (30%) of gross residential income.

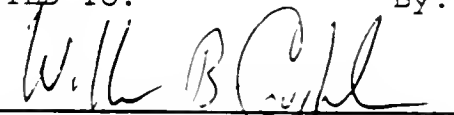
Executed as a sealed instrument the day and year first above written.


BACK BAY RESTORATIONS COMPANY

By: 
Zena Nemetz, General Partner

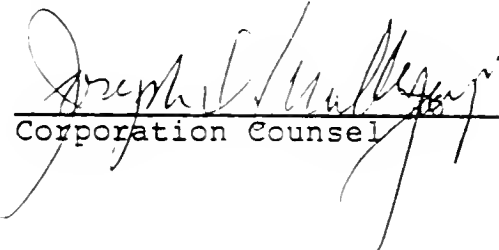
By: Back Bay Restorations, Inc.,
a General Partner

ASSENTED TO:

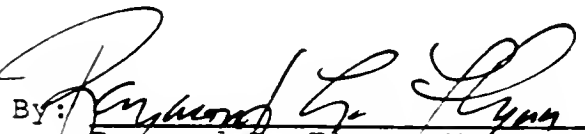
By: 
Commissioner of Assessing

By: 
Zena Nemetz, President

APPROVED AS TO FORM:

By: 
Corporation Counsel

CITY OF BOSTON

By: 
Raymond E. Flynn, Mayor

AMENDMENT TO 6A CONTRACT BETWEEN
MBH ASSOCIATES
AND THE CITY OF BOSTON

PURSUANT TO SECTION 6A OF
CHAPTER 121A OF THE GENERAL LAWS

AMENDMENT (the "Amendment") made this 26 day of October, 1989, by and between MBH ASSOCIATES, a Massachusetts limited partnership (the "Owner"), and the CITY OF BOSTON, a municipal corporation of the Commonwealth of Massachusetts (the "City"), acting under Massachusetts General Laws, Chapter 121A, Section 6A, as amended, and every other power and authority hereto enabling. Collectively, the Owner and the City are hereinafter referred to as the "Parties".

W I T N E S S E T H T H A T:

WHEREAS, there was filed on behalf of B & M Associates with the Boston Redevelopment Authority of the Commonwealth of Massachusetts (the "Authority"), an application dated November 8, 1979 (the "Application") under the provisions of Massachusetts General Laws, Chapter 121A, as amended ("Chapter 121A"), and Chapter 652 of the Acts of 1960, as amended, for approval of a project situated in the City of Boston, said project being more particularly described in Paragraph 4 of said Application and in the metes and bounds description of said Application (the "Project");

WHEREAS, the Application sought the approval of the Authority of a project involving 44 units of housing and 21,000 square feet of commercial space (the "Project");

WHEREAS, the Authority adopted a certain Report and Decision on the Project (the "Report and Decision") by a vote on January 24, 1980;

WHEREAS, the Mayor of the City of Boston (the "Mayor") approved the aforementioned vote of the Authority on February 12, 1980;

WHEREAS, the vote of the Authority along with the approval of the Mayor were filed with the office of the City Clerk of the City of Boston (the "City Clerk") on February 19, 1980;

WHEREAS, the Report and Decision was amended by a First Amendment thereto, adopted by a vote of the Authority at a meeting on March 20, 1980, which vote was approved by the Mayor on March 27, 1980 and such vote as approved was filed with the City Clerk on March 27, 1980, which First Amendment changed the name of the partnership which owned the Project subject to Chapter 121A from B & M Associates to MBH Associates;

WHEREAS, the Owner and the City of Boston (the "City") entered into a certain contract, dated as of April 24, 1980, pursuant to Chapter 121A, Section 6A, which contract is incorporated herein by reference (the "6A Contract");

WHEREAS, the Report and Decision was amended by a Second Amendment thereto adopted by a vote of the Authority at a meeting on February 16, 1989, which vote was approved by the Mayor on March 20, 1989, and such vote as approved was filed with the City Clerk on March 24, 1989, which Second Amendment changed in part the description of the Project; and

WHEREAS, the Report and Decision was amended by a Third Amendment thereto, adopted by a vote of the Authority at a meeting on June 29, 1989, which vote was approved by the Mayor on July 24, 1989, and such vote as approved was filed with the City Clerk on July 25, 1989, which Third Amendment in part further changed the description of the Project and approved and authorized the execution of an amendment to the 6A Contract;

NOW, THEREFORE, the Parties agree as follows:

The 6A Contract is amended by:

1. Inserting the following sub-paragraph as new sub-paragraph 1(d)(iv):

"Commencing with calendar year 1988, and for each year thereafter, the Owner shall pay no more than eight and 60/100 percent (8.6%) of the total gross income from residential tenants, commercial tenants and parking; provided, however, that for calendar year 1988 and succeeding years thereafter, the Owner shall pay no less than the amount paid pursuant to Chapter 121A, Section 10 and provided further that in any year that the difference between the amount that would be due if calculated pursuant to sub-paragraph 1(d)(iii) of the 6A Contract and the amount due pursuant to this sub-paragraph 1(d)(iv) of the Amendment exceeds seventy thousand dollars (\$70,000) then the Owner shall pay to the City as an additional payment hereunder such difference in excess of said seventy thousand dollars (\$70,000)."

2. Inserting the following sub-paragraph as new sub-paragraph 1(d)(v):

"The Owner shall receive a one time credit equal to one-half of the accrued interest on any unpaid amounts due as of April 1, 1989 but in no event more than twenty nine thousand two hundred seventy five dollars (\$29,275). The credit shall be available for use by the Owner only at the time the Owner pays to the City such unpaid amounts.

3. By designating the current sub-paragraph 1(d)(iv) as sub-paragraph 1(d)(vi).

4. By inserting the following paragraph as new paragraph 3:

"Pursuant to the authority conferred by General Laws, Chapter 121A, Section 10, the Board of Assessors of the City hereby determine the maximum fair cash value of the Project, commencing with calendar year 1989 and succeeding years, shall not exceed an amount which when used in calculating the urban redevelopment excise tax in accordance with the applicable statutory formulae produces an excise equal to or less than the amount due under paragraph 1(d)(iv) of this Amendment.

The Board of Assessors of the City agree that such fair cash value shall be certified annually as required, to the Owner and the Department of Revenue, Commonwealth of Massachusetts."

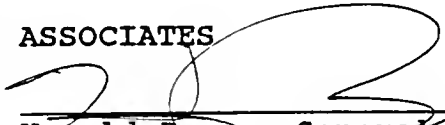
5. By inserting the following paragraph as new paragraph 4:

"In the event the Owner, by and through its contractors, after commencement does not diligently proceed with the construction of the Building and complete same in accordance with the terms of the Regulatory Agreement or the Amended and Restated Regulatory Agreement, of even date, by and between the Authority and the Owner, required by provisions of the Third Amendment to the Report and Decision on the Project, the Authority's Director may by written notice to the Commissioner of Assessing and/or the Board of Assessors of the City determine and direct that the right of the Owner to make payments under the formula set forth in sub-paragraph 1(d)(iv), as added by Section 1 of this Amendment and the obligation of the Board of Assessors to make the fair cash value determinations in accordance with Section 4 of this Amendment, shall both be suspended and or revoked, for such period(s) of time as he shall determine, including the full remainder of the period of the tax exemption for the Project, and during such period(s) the Owner shall be obligated to make payments under sub-paragraph 1(d)(iii) of the 6A Contract."

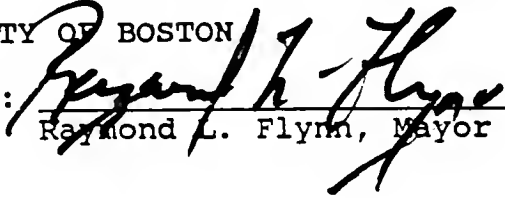
6. By renumbering the remaining paragraphs to confirm the sequence to the changes made herein.

EXECUTED as a sealed instrument the day and year first above written.

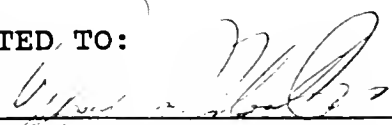
MBH ASSOCIATES

By: 
Harold Brown, General Partner

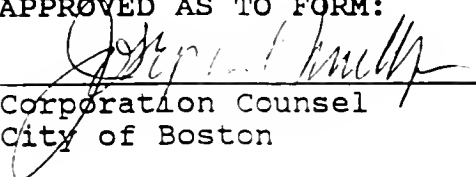
CITY OF BOSTON

By: 
Raymond L. Flynn, Mayor

ASSENTED TO:

By: 
Commissioner of Assessing

APPROVED AS TO FORM:


Corporation Counsel
City of Boston

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